

CRUZ VALDIVIESO FIGUERA vs ALL VIP CARE INC. AND LIZ VELAZQUEZ MCKINNON
Mckinnon, Liz on 05/16/2023

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 0:22-CV-61553-DIMITROULEAS/HUNT

CRUZ VALDIVIESO FIGUERA,

Plaintiff,

vs.

ALL VIP CARE INC. AND
LIZ VELAZQUEZ MCKINNON,

Defendant.

_____ /

DEPOSITION OF LIZ VANESSA MCKINNON

TAKEN ON BEHALF OF THE PLAINTIFF

MAY 16, 2023
11:03 A.M TO 2:14 P.M

ALL PARTIES APPEARED REMOTELY
PURSUANT TO
FLORIDA SUPREME COURT ORDER AOSC20-23

REPORTED BY:
SULEYDIS VIDES, COURT REPORTER
NOTARY PUBLIC, STATE OF FLORIDA

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<p align="center">Page 2</p> <p>1 APPEARANCES OF COUNSEL</p> <p>2 ON BEHALF OF THE PLAINTIFF:</p> <p>3 TOUSSAINT CUMMINGS, ESQUIRE</p> <p>4 FAIRLAW FIRM</p> <p>5 135 SAN LORENZO AVENUE, SUITE 770</p> <p>6 CORAL GABLES, FLORIDA 33146</p> <p>7 305-230-4884</p> <p>8 TOUSSAINT@FAIRLAWATTORNEY.COM</p> <p>9 (REMOTELY VIA ZOOM)</p> <p>10 ON BEHALF OF THE DEFENDANT:</p> <p>11 RANDY MARK GOLDBERG, ESQUIRE</p> <p>12 RANDY M. GOLDBERG & ASSOCIATES, PLLC</p> <p>13 151 NORTHWEST 1ST AVENUE</p> <p>14 DELRAY BEACH, FLORIDA 33444</p> <p>15 754-224-0867</p> <p>16 RMGESQUIRE@GMAIL.COM</p> <p>17 (REMOTELY VIA ZOOM)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p align="center">Page 4</p> <p>1 INDEX OF EXHIBITS</p> <p>2 EXHIBIT DESCRIPTION PAGE</p> <p>3 PLAINTIFF'S:</p> <p>4 EXHIBIT A NOTICE OF TAKING DEPOSITION 9</p> <p>5 EXHIBIT B PATIENT TIME SHEETS 40</p> <p>6 EXHIBIT C PATIENT CESAR GOOGLE POST REVIEW 61</p> <p>7 EXHIBIT D INDEPENDENT CONTRACTOR AGREEMENT</p> <p>8 AND SIGN UP DOCUMENTS 67</p> <p>9 EXHIBIT E ALL VIP PATIENT CALENDAR 81</p> <p>10 EXHIBIT F WEEKLY PAY STUBS 98</p> <p>11 EXHIBIT G 22-0808 STATEMENT OF DIANA RAMIREZ 102</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p align="center">Page 3</p> <p>1 INDEX OF EXAMINATION</p> <p>2 WITNESS: LIZ VANESSA MCKINNON</p> <p>3 DIRECT EXAMINATION</p> <p>4 BY TOUSSAINT CUMMINGS, ESQUIRE</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p align="center">Page 5</p> <p>1 VIDEOTAPED DEPOSITION OF LIZ VANESSA MCKINNON</p> <p>2 MAY 16, 2023</p> <p>3 Thereupon:</p> <p>4 LIZ VANESSA MCKINNON</p> <p>5 was called as a witness, and after having been first</p> <p>6 duly sworn, testified as follows:</p> <p>7 THE COURT REPORTER: We are now on the record.</p> <p>8 Today's date May 16th, 2023, and the time is</p> <p>9 approximately 11:00 a.m.</p> <p>10 We are here for the videotaped deposition</p> <p>11 of Cruz Valdivieso Figuera versus All VIP Care,</p> <p>12 Inc.</p> <p>13 and Liz Velazquez McKinnon. Case Number</p> <p>14 022-CV-61553. United States District Court</p> <p>15 Southern District of Florida.</p> <p>16 The Court Reporter is Suleydis Vides with</p> <p>17 Universal Court Reporting.</p> <p>18 Would all Counsels please introduce yourself</p> <p>19 for the record? I'm sorry, counsel you're muted.</p> <p>20 MR. CUMMINGS: I was muted. Toussaint</p> <p>21 Cummings on behalf of Plaintiff, Cruz Valdivieso</p> <p>22 Figuera.</p> <p>23 MR. GOLDBERG: Randy Goldberg on behalf of</p> <p>24 Defendants in this action.</p> <p>25 THE COURT REPORTER: Thank you. Counselors,</p>

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<p style="text-align: right;">Page 6</p> <p>1 you might proceed.</p> <p>2 DIRECT EXAMINATION</p> <p>3 BY MR. CUMMINGS:</p> <p>4 Q Okay. All right. Good morning, Ms. McKinnon.</p> <p>5 A Good morning.</p> <p>6 Q All right. My name is Toussaint Cummings, I'm</p> <p>7 the Attorney representing Cruz Valdivieso and this is a</p> <p>8 bit of a different type of a deposition. Have you ever</p> <p>9 taken a deposition before?</p> <p>10 A Don't think so.</p> <p>11 Q Okay. And so you've never taken a deposition</p> <p>12 before at all as far as you know?</p> <p>13 A As far as I recall, no.</p> <p>14 Q All right. So, normally a deposition I would</p> <p>15 be asking you questions in your own individual capacity.</p> <p>16 Today you're here as Representative of All</p> <p>17 VIP. I'll just, you know, abbreviate the name All VIP,</p> <p>18 the company.</p> <p>19 A Okay.</p> <p>20 Q Okay. All right. So, do you understand that</p> <p>21 you are here representing -- you always have to be</p> <p>22 respectful to the Court Reporter and that requires that</p> <p>23 we only speak one at a time.</p> <p>24 The reason being is because when I ask a</p> <p>25 question, it gets printed up in a deposition transcript,</p>	<p style="text-align: right;">Page 8</p> <p>1 will be no answer to write down. So, please always</p> <p>2 provide a yes, a verbal yes or no or whatever the answer</p> <p>3 calls for it. All right.</p> <p>4 A Okay.</p> <p>5 Q All right. If there's a situation where that</p> <p>6 happens, again I'll just repeat the question remind you</p> <p>7 to please provide a verbal response.</p> <p>8 A Okay.</p> <p>9 Q And the third instance is when people are</p> <p>10 answering questions and they say uh-huh or uh-uh because</p> <p>11 that doesn't necessarily mean anything when it's written</p> <p>12 down. So, if you say uh-huh or uh-uh, then I'll just</p> <p>13 remind you repeat the question and then continue moving</p> <p>14 on. Okay?</p> <p>15 A Got it.</p> <p>16 Q All right. So, did you receive the deposition</p> <p>17 notice for this deposition?</p> <p>18 A Think I received several.</p> <p>19 Q Okay.</p> <p>20 A So, yes. The answer is yes.</p> <p>21 Q All right. No problem. Let me just show you</p> <p>22 exactly what I'm talking about here. All right. I am</p> <p>23 going to make this Exhibit 1 for the deposition record.</p> <p>24 Okay. And so, I think I said Exhibit, but</p> <p>25 actually it should be Exhibit A.</p>
<p style="text-align: right;">Page 7</p> <p>1 like a little booklet.</p> <p>2 So there'll be a question line, a question and</p> <p>3 then there will be an answer line for the answer that</p> <p>4 you provide on behalf of the company. Okay?</p> <p>5 A Okay.</p> <p>6 Q Got it. And so sometimes I may be asking you</p> <p>7 a question and you may anticipate where the question was</p> <p>8 going and then if you jump ahead, what happens is -- the</p> <p>9 answer that you're providing and then we can't read it</p> <p>10 smoothly in the transcript.</p> <p>11 So if that happens, then I'll just ask you --</p> <p>12 then I'll just remind you and then I'll repeat the</p> <p>13 question so that we have a clear question and answer.</p> <p>14 All right.</p> <p>15 A Okay.</p> <p>16 Q Okay. Now you're not the only person that</p> <p>17 does it, I do it sometimes also. Sometimes I may</p> <p>18 interrupt your answer and then when that happens, I'll</p> <p>19 repeat the question for the same reason.</p> <p>20 A Okay.</p> <p>21 Q All right. Second thing is, we always have to</p> <p>22 provide a verbal response to any question that I ask.</p> <p>23 So for example, if you shake your head, like</p> <p>24 yes or no or, you know, then the transcript or the Court</p> <p>25 Reporter cannot pick up none verbal responses, so there</p>	<p style="text-align: right;">Page 9</p> <p>1 (Thereupon, Plaintiff's Exhibit A was entered</p> <p>2 into the record.)</p> <p>3 BY MR. CUMMINGS:</p> <p>4 Q So, you see the document I'm sharing my screen</p> <p>5 right now Ms. McKinnon?</p> <p>6 A Yes.</p> <p>7 Q All right. And have you seen this document</p> <p>8 before?</p> <p>9 A Yes.</p> <p>10 Q All right. The reason I'm showing this to you</p> <p>11 is because not only does it have the date of today's</p> <p>12 deposition, but there's a third page that shows what's</p> <p>13 called the areas of inquiry which are questions or</p> <p>14 topics that I'll be asking you about today. Have you</p> <p>15 seen this page before?</p> <p>16 A I saw it.</p> <p>17 Q Okay. All right. And so you understand that</p> <p>18 the questions that I ask you today are generally going</p> <p>19 to be related to the areas that are here, correct?</p> <p>20 A Yes.</p> <p>21 Q All right. And are you prepared to answer</p> <p>22 questions related to these topics?</p> <p>23 A Somewhat, I believe.</p> <p>24 Q Okay. All right. Did you speak to anybody in</p> <p>25 preparation for this deposition?</p>

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<p style="text-align: right;">Page 10</p> <p>1 A Just -- I believe, just, you know, just</p> <p>2 Randy, but, you know, it was basically that we had to</p> <p>3 prepare --</p> <p>4 Q Hold on. Without telling me what the</p> <p>5 conversation was? --</p> <p>6 A No, that was it. Just to prepare for this day.</p> <p>7 Q Yeah, exactly right. Yeah. So, you don't</p> <p>8 have to tell me anything you ever say with your Attorney</p> <p>9 because that violates the attorney-client privilege, but</p> <p>10 in preparation for this deposition, you spoke with your</p> <p>11 Attorney, Randy Goldberg?</p> <p>12 A Yes.</p> <p>13 Q And did you speak to anybody else that was not</p> <p>14 an attorney, like, any employees or anybody else?</p> <p>15 A Yes.</p> <p>16 Q Okay. All right. Go ahead.</p> <p>17 A That would be Diana Ramirez because she also</p> <p>18 is going to be deposed and that was it. It was</p> <p>19 basically to discuss that we're going to be deposed and</p> <p>20 that's it.</p> <p>21 Q Okay. No problem. It's my understanding that</p> <p>22 Ms. Ramirez no longer works with All VIP. Is that</p> <p>23 correct?</p> <p>24 A No, she's back.</p> <p>25 Q She's back. Okay. All right, works. But</p>	<p style="text-align: right;">Page 12</p> <p>1 office. How many offices does All VIP have?</p> <p>2 A Let's see. We have one in West Palm Beach, we</p> <p>3 have an office in Port St. Lucie, we have an office in</p> <p>4 Pahokee, we have an office in Miami and Broward. Some</p> <p>5 five perhaps.</p> <p>6 Q Okay. And when you said that you're the Palm</p> <p>7 Beach administrators, did you mean West Palm Beach?</p> <p>8 A Yes. What happens is that each county has a</p> <p>9 license, so you need to have an administrative for each</p> <p>10 county. So, I'm the administrator for the Palm Beach</p> <p>11 office and license.</p> <p>12 Q How long have you been the administrator for</p> <p>13 the Palm Beach office?</p> <p>14 A Since 2016.</p> <p>15 Q Are you a -- an owner of All VIP?</p> <p>16 A Yes, I am.</p> <p>17 Q Are you the only owner of All VIP?</p> <p>18 A That is correct.</p> <p>19 Q How long have you been the owner of All VIP?</p> <p>20 A Since 2016.</p> <p>21 Q Did All VIP exist before 2016?</p> <p>22 A No.</p> <p>23 Q All right. And these pauses are just me</p> <p>24 taking -- writing down notes. Okay. Just --</p> <p>25 A Okay.</p>
<p style="text-align: right;">Page 11</p> <p>1 there was a period of time when Ms. Ramirez was not</p> <p>2 working for All VIP?</p> <p>3 A Yes, like several weeks. She had a family</p> <p>4 issue, but she's back.</p> <p>5 Q Okay. And what is Ms. Ramirez's position with</p> <p>6 All VIP?</p> <p>7 A She is the administrator for the Broward</p> <p>8 office.</p> <p>9 Q Besides Ms. Ramirez, did you speak to any</p> <p>10 other All VIP employees in preparation for the</p> <p>11 deposition?</p> <p>12 A No, that was it.</p> <p>13 Q Got it. Okay. Is there any reason why you</p> <p>14 cannot take a deposition today?</p> <p>15 A No, there's no reason why I cannot.</p> <p>16 Q All right. So, let's get started.</p> <p>17 Ms. McKinnon, are you an employee of All VIP?</p> <p>18 A I'm going to say yes because I run the office</p> <p>19 as well. Yes.</p> <p>20 Q What is your position with All VIP?</p> <p>21 A I am the administrator for the Palm Beach</p> <p>22 Office or County or license.</p> <p>23 Q Previously you mentioned that Ms. Ramirez was</p> <p>24 the administrator for the Broward office and now you're</p> <p>25 saying you're the administrator for the Palm Beach</p>	<p style="text-align: right;">Page 13</p> <p>1 Q Okay. What services does All VIP provide?</p> <p>2 A We provide medical and non-medical services.</p> <p>3 Q What are the medical services that are</p> <p>4 provided?</p> <p>5 A Nursing. Just nursing, skilled nursing.</p> <p>6 Q And the nursing that's provided, do those</p> <p>7 nurses visit clients in their home?</p> <p>8 A Yes.</p> <p>9 Q Do the nurses treat patients outside of their</p> <p>10 homes?</p> <p>11 A Be more specific please?</p> <p>12 Q I'm not really sure how to ask the question</p> <p>13 any differently. What I guess I basically want to know</p> <p>14 is, do the nurses that work for All VIP only provide</p> <p>15 services in home for the clients?</p> <p>16 A No, they do not.</p> <p>17 Q Okay. If the nurses are now working in homes,</p> <p>18 what other types of services do they provide outside of</p> <p>19 homes?</p> <p>20 A They can work for them at the hospital,</p> <p>21 private pay, they can work for them -- they can travel</p> <p>22 with the client. They can also work in an assisted</p> <p>23 living facility with the client.</p> <p>24 Q Okay. And then you mentioned that there's</p> <p>25 non-medical services, what types of non-medical services</p>

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<p style="text-align: right;">Page 14</p> <p>1 does All VIP provide?</p> <p>2 A That includes personal care which is bathing,</p> <p>3 dressing. We provide transportation, we provide meal</p> <p>4 preparation, homemaking, household duties, companionship</p> <p>5 and the like.</p> <p>6 Q What types of All VIP employees provide the</p> <p>7 non-medical services?</p> <p>8 A HHAs and CNAs.</p> <p>9 Q HHA stands for Home Health Aide?</p> <p>10 A Correct.</p> <p>11 Q And CNA stands for Certified Nursing</p> <p>12 Assistant?</p> <p>13 A That's right.</p> <p>14 Q Does All VIP employee any other job positions</p> <p>15 except for nurses, home health aides and certified</p> <p>16 nursing assistants?</p> <p>17 A An RNs and LPNs and that's as far as we go.</p> <p>18 Q RN is going to be resident nurse?</p> <p>19 A The RN is going to be registered nurse --</p> <p>20 Q Registered nurse.</p> <p>21 A -- and then the LPN.</p> <p>22 Q And what is LPN stand for?</p> <p>23 A Licensed Practical something. I don't</p> <p>24 remember --</p> <p>25 Q Okay.</p>	<p style="text-align: right;">Page 16</p> <p>1 A That all depends because, you know, I don't</p> <p>2 know if you want to stay specific to this case or you</p> <p>3 want me to go in general, you have to tell me.</p> <p>4 Q Okay. No problem. Let's speak generally for</p> <p>5 right now.</p> <p>6 A Okay.</p> <p>7 Q Generally speaking, how does All VIP determine</p> <p>8 if a client needs companionship services?</p> <p>9 A One way that we can do it is by the -- either</p> <p>10 the administrator or the nurse goes out to the client's</p> <p>11 home and does a care plan -- to do a care plan or the</p> <p>12 client might just ask for it.</p> <p>13 We have many clients that will call and say I</p> <p>14 need companionship for my parent. You know, I live in a</p> <p>15 different state.</p> <p>16 My mom is home alone all the time, she, you</p> <p>17 know, so they might want companionship. Sometimes even</p> <p>18 playing dominoes or bingo cards in the home, that's</p> <p>19 companionship.</p> <p>20 Q Okay. And how is the order directed to the</p> <p>21 home health aide or the certified nursing assistant that</p> <p>22 they are only to be providing companionship services?</p> <p>23 A Again, that depends. For example, I'm going</p> <p>24 to use Medicaid now, Medicaid Long Term Care Program.</p> <p>25 The Medicaid Long Term Care program, they have their own</p>
<p style="text-align: right;">Page 15</p> <p>1 A -- but it's just, you know, it's a step down</p> <p>2 from being a registered nurse.</p> <p>3 Q Got it. Okay. And a registered nurse would</p> <p>4 be under the umbrella of medical services?</p> <p>5 A Correct because she can provide skilled</p> <p>6 services.</p> <p>7 Q And a license -- let's assume that LPN stands</p> <p>8 for licensed practical nurse. Do they also fall under</p> <p>9 medical services?</p> <p>10 A Oh, yes, they're allowed to.</p> <p>11 Q Okay. All right. Now you mentioned that</p> <p>12 under non-medical services one of the types of services</p> <p>13 companionship, what does companionship mean?</p> <p>14 A Talking to the client and, you know, many</p> <p>15 clients sometimes are lonely or depressed. So, they</p> <p>16 talk.</p> <p>17 They might talk about sports, they might talk</p> <p>18 about history, anything, the country, you know, we have</p> <p>19 lot of clients from Cuba, so they'll talk about a</p> <p>20 country back in the day, their foods, you know, the</p> <p>21 culture. Just keeping them, you know, entertain, you</p> <p>22 know, keeping their mind going.</p> <p>23 Q And as it relates to companionship, who</p> <p>24 determines whether the client needs companionship</p> <p>25 services?</p>	<p style="text-align: right;">Page 17</p> <p>1 system where they do the evaluations.</p> <p>2 After they perform a care plan and they do the</p> <p>3 evaluation, they speak to the client's doctor, they will</p> <p>4 send that to the agency, they will tell us what services</p> <p>5 to provide.</p> <p>6 Once they give us those instructions, then we</p> <p>7 call our caregivers and we ask our caregivers, "Can you</p> <p>8 perform these duties?" They either say yes or they say</p> <p>9 no, that's how it all begins.</p> <p>10 Q And when you mentioned the agency, you are</p> <p>11 referring to All VIP?</p> <p>12 A That is correct. In this case, yes.</p> <p>13 Q Right. How does All VIP obtained its clients?</p> <p>14 A Well, I've been in the industry for a very</p> <p>15 long time. So, I've already established my resources,</p> <p>16 word of word of mouth, marketing, advertisements, case</p> <p>17 managers, you know, hospitals.</p> <p>18 Q Generally speaking, do clients reach out to</p> <p>19 All VIP for their services?</p> <p>20 A Yes, they can.</p> <p>21 Q Does all VIP do any -- I know you mentioned</p> <p>22 marketing, but do you do any, like, direct solicitation</p> <p>23 of clients?</p> <p>24 A No. We basically just print that out, you</p> <p>25 know, through care.com or, you know, that type of --</p>

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<p style="text-align: right;">Page 18</p> <p>1 that type of thing, A Place for Mom.</p> <p>2 That's usually how we get our clients or</p> <p>3 unless someone calls us and says to us "listen, you</p> <p>4 know, we know someone who needs services, here's a</p> <p>5 number, please call them".</p> <p>6 That's -- then that's the only way I will</p> <p>7 solicitate a client. If someone will call me and say,</p> <p>8 please call so and so, they need services. Other than</p> <p>9 that, we place our X.</p> <p>10 Q Once a potential client for All VIPs</p> <p>11 identified, what process is there to actually have that</p> <p>12 person become a client?</p> <p>13 A We do a care plan. We do an assessment, we</p> <p>14 discuss the pricing or the fee and then we start to look</p> <p>15 for caregiver that is a good fit for the client.</p> <p>16 Q How do clients pay for All VIP services?</p> <p>17 A They either pay by credit card or check or the</p> <p>18 insurance company pays.</p> <p>19 Q Okay. So, in the first example you gave which</p> <p>20 is credit card and check, then would that client be</p> <p>21 considered a private client for All VIP?</p> <p>22 A It will be for the private clients.</p> <p>23 Q Are private clients generally paying more than</p> <p>24 clients who pay -- who are having their services paid</p> <p>25 through insurance?</p>	<p style="text-align: right;">Page 20</p> <p>1 Once the caregiver sends us their timesheet,</p> <p>2 which means we have to reimburse them for their</p> <p>3 services, then we send that over to the insurance</p> <p>4 company.</p> <p>5 So as soon as a caregiver sends me her</p> <p>6 timesheet, that's when we send it over to the insurance</p> <p>7 company for payment.</p> <p>8 Q If there's a potential client for All VIP who</p> <p>9 is going to use insurance to pay for services, is there</p> <p>10 insurance information collected upfront?</p> <p>11 A Oh, yes, from the very beginning.</p> <p>12 Q And what All VIP verifies that the insurance</p> <p>13 is valid, how quickly is a caregiver provided to that</p> <p>14 person?</p> <p>15 A As soon as we can find someone, that can be a</p> <p>16 day, that can be two days, that can be a week. It all</p> <p>17 depends on the needs and also the insurance company will</p> <p>18 tell us too when to start to provide services.</p> <p>19 Q Do insurance companies limit the number of</p> <p>20 visits that their clients have with All VIPs caregivers?</p> <p>21 A Yes, they do.</p> <p>22 Q Do the insurance companies define the scope of</p> <p>23 services that will be -- that All VIP will be providing</p> <p>24 to its clients?</p> <p>25 A Yes, they send over the care plan.</p>
<p style="text-align: right;">Page 19</p> <p>1 A Yes, I know.</p> <p>2 Q Okay. What would the yes be, does it just</p> <p>3 depend on the services that they're receiving?</p> <p>4 A It depends who's paying. The VA pays very</p> <p>5 well and most private clients don't pay that much. So,</p> <p>6 the answer to your question is, yes, I know.</p> <p>7 Q So, some of All VIPs clients are veterans?</p> <p>8 A That's correct.</p> <p>9 Q And if the client is a veteran, then sometimes</p> <p>10 their -- All VIPs fees are being paid by the Veterans</p> <p>11 Affairs Association?</p> <p>12 A That is correct.</p> <p>13 Q All right. And then some clients who are not</p> <p>14 paying through insurance are paying out of their own</p> <p>15 pocket as far as you know?</p> <p>16 A Yes. If the insurance doesn't pay, then</p> <p>17 they're paying out of their own pocket.</p> <p>18 Q And when we talk about clients whose insurance</p> <p>19 is paying for the service, then at what point does the</p> <p>20 insurance company become involved in the payment</p> <p>21 process?</p> <p>22 A Oh, from the very -- once we bill. Once the</p> <p>23 insurance company calls us and sends us the referral, we</p> <p>24 accept the client and we staff the client with a</p> <p>25 caregiver, then we begin to bill.</p>	<p style="text-align: right;">Page 21</p> <p>1 Q Do All VIP caregivers ever modify the</p> <p>2 insurance plan without the carrier's consent or</p> <p>3 knowledge?</p> <p>4 A The caregiver cannot do that.</p> <p>5 Q Do caregivers have the ability to ask the</p> <p>6 insurance company to modify the care plan?</p> <p>7 A They definitely have the ability, but they do</p> <p>8 not have the right and it's an appropriate for them to</p> <p>9 do that.</p> <p>10 Q Are the caregivers informed that they cannot</p> <p>11 modify care plans that are created by insurance</p> <p>12 companies?</p> <p>13 A Oh, they won't inform, especially when they've</p> <p>14 been working for many years as a caregiver because</p> <p>15 pretty much all the agencies are the same and</p> <p>16 furthermore, they get this big package when they come in</p> <p>17 to apply.</p> <p>18 Q Come in to apply for All VIP?</p> <p>19 A That's correct. And usually all the agencies</p> <p>20 in town pretty much had the same rules.</p> <p>21 Q Who at All VIP and let's just stick with the</p> <p>22 Palm Beach administrate, the Palm Beach office?</p> <p>23 A Okay.</p> <p>24 Q Who at the Palm Beach office is responsible</p> <p>25 for assigning caregivers to patients?</p>

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<p style="text-align: right;">Page 22</p> <p>1 A The care coordinators.</p> <p>2 Q Are you a care coordinator at the Palm Beach</p> <p>3 office?</p> <p>4 A I can be.</p> <p>5 Q Sometimes you slip into that role?</p> <p>6 A Sure.</p> <p>7 Q Is Diana Ramirez a care coordinator?</p> <p>8 A She can be.</p> <p>9 Q Who are the designated care coordinators at</p> <p>10 the Palm Beach office?</p> <p>11 A Well, right now currently we have Cassandra,</p> <p>12 we have Jisset, we have Analia, we have Astrid, we have</p> <p>13 Madeline, we have Jonathan Torres, we have myself, we</p> <p>14 have an Analia.</p> <p>15 Q Okay. You mentioned quite a few people --</p> <p>16 A Yes.</p> <p>17 Q -- about how many care coordinators would you</p> <p>18 say they are at the Palm Beach office?</p> <p>19 A We definitely have five and it could be up to</p> <p>20 seven because, you know, we, you know, it's that thing</p> <p>21 about other job duties has been acquired and with COVID-</p> <p>22 19 and everything that's been going on, we have to be</p> <p>23 prepared here.</p> <p>24 So, employees here have to be prepared to, you</p> <p>25 know, jump into, you know, into any role, you know.</p>	<p style="text-align: right;">Page 24</p> <p>1 patient care?</p> <p>2 A One of them does and the patients and the, you</p> <p>3 know, medication management, that type of thing.</p> <p>4 Q What does the other nurse or doctor do on-</p> <p>5 staff?</p> <p>6 A They just check records just to make sure that</p> <p>7 everything is it's in place, you know, and they went</p> <p>8 meeting federal and state regulations.</p> <p>9 Q What is the name of that person that make sure</p> <p>10 that All VIP is meeting state and federal regulations?</p> <p>11 A Well, besides myself because I'm the</p> <p>12 administrator, so the state will first come to me,</p> <p>13 they'll ask me, they'll come to me, then they'll go to</p> <p>14 the nurse and that'll be Dr. Clark.</p> <p>15 Q What's the first name?</p> <p>16 A Dr. Clark, Diane Clark.</p> <p>17 Q Diane Clark.</p> <p>18 A Dr. Diane Clark.</p> <p>19 Q How long has she worked for All VIP?</p> <p>20 A I think she's been here, I'm going to say</p> <p>21 maybe a year or so.</p> <p>22 Q Did Diane Clark work at All VIP at the same</p> <p>23 time as Cruz Valdivieso?</p> <p>24 A I don't think so. Not at least -- not at the</p> <p>25 capacity, no. I'm going to say no and again, we did --</p>
<p style="text-align: right;">Page 23</p> <p>1 Q Okay.</p> <p>2 A So, and so that's what we tend to do, is we</p> <p>3 want to make sure that our client is staffed and that</p> <p>4 are not home alone.</p> <p>5 Q How many employees does All VIP have in the</p> <p>6 Palm Beach office?</p> <p>7 A Oh, geez. In this office we probably have,</p> <p>8 let's see. There's 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,</p> <p>9 12, 13, 14, like, 15, 16.</p> <p>10 Q And are the majority of the employees at the</p> <p>11 Palm Beach office consider care coordinators?</p> <p>12 A No. Not the majority, no, but they pretty</p> <p>13 much prepared to jump into that role if need be.</p> <p>14 Q Okay. What other positions are there at the</p> <p>15 Palm Beach office besides care coordinator?</p> <p>16 A Receptionist, office manager, alternate</p> <p>17 administrator, the nurse.</p> <p>18 Q Is there an on-staff nurse, I mean, on-call</p> <p>19 nurse at all times?</p> <p>20 A Well, if we do, we have two that we have, you</p> <p>21 know, that we have, one is a doctor that, but role here</p> <p>22 is -- has a nurse.</p> <p>23 Q And do the nurses that you're referring to,</p> <p>24 one who's a doctor and I guess the other one as a nurse</p> <p>25 working in the Palm Beach office, do they provide</p>	<p style="text-align: right;">Page 25</p> <p>1 we, you know, Cruz was doing non-medical services, when</p> <p>2 you provide medical services, you don't need a skilled</p> <p>3 person involved.</p> <p>4 Q Okay. Did any of the care coordinators that</p> <p>5 you mentioned previously work at All VIP at the same</p> <p>6 time as Cruz Valdivieso?</p> <p>7 A Yes, yeah. Yes, but remember, they're in</p> <p>8 different offices, but, yes. So, I don't even know if</p> <p>9 they know her personally, but, yes.</p> <p>10 Q Okay. And when you say they're in different</p> <p>11 offices, you mean different physical offices or you mean</p> <p>12 the different umbrellas and --</p> <p>13 A Physical, no, physical offices were West Palm</p> <p>14 Beach and Cruz was mainly, she was working for Broward</p> <p>15 and they are in Deerfield Beach.</p> <p>16 Q Have you ever met Cruz Valdivieso?</p> <p>17 A I think I saw her in the office maybe once or</p> <p>18 twice.</p> <p>19 Q And which office are you referring to?</p> <p>20 A West Palm Beach.</p> <p>21 Q What reason would Cruz Valdivieso have to be</p> <p>22 at the West Palm Beach office?</p> <p>23 A She came in one day, something about her</p> <p>24 paycheck, her earnings not being correct. So, I wrote</p> <p>25 her a check and that's how I recall seeing her.</p>

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<p style="text-align: right;">Page 26</p> <p>1 Q As the owner of All VIP, are you always aware</p> <p>2 of all of the home health aides that are working in all</p> <p>3 of the offices?</p> <p>4 A If I would say always, I probably will be</p> <p>5 lying, but I try my very best to be involved as much as</p> <p>6 I can.</p> <p>7 Q Who is responsible for hiring decisions at the</p> <p>8 Broward office?</p> <p>9 A Diana, Diana Ramirez.</p> <p>10 Q Are you Diana Ramirez's direct supervisor?</p> <p>11 A Yes.</p> <p>12 Q Do you have to approve all of Diana Ramirez's</p> <p>13 hiring decisions?</p> <p>14 A No. That will be micromanagement and I --</p> <p>15 frankly, I don't have time for that.</p> <p>16 Q I understood. Okay. Does Diana Ramirez had</p> <p>17 to have her -- if she chooses to employ a caregiver,</p> <p>18 does that decision have to be run by anybody else?</p> <p>19 A No, she -- we have to follow state guidelines.</p> <p>20 So, the state will tell us how to hire them.</p> <p>21 So, she follows those instructions. Now when</p> <p>22 I do audits here, if I see that they hire someone that</p> <p>23 we're not allowed to hire, then they will be hearing</p> <p>24 from me-</p> <p>25 Q Okay.</p>	<p style="text-align: right;">Page 28</p> <p>1 she must report it.</p> <p>2 Alzheimer's, if she's working with an</p> <p>3 Alzheimer's client, she needs to know how to deal with</p> <p>4 that. So, that's -- those are the key CEU that they</p> <p>5 must have.</p> <p>6 When they come to apply and get on our roster,</p> <p>7 they must have that plus CPR card and that needs to be</p> <p>8 renewed every two years.</p> <p>9 We also want them to have a professional</p> <p>10 liability because God forbid something happens because,</p> <p>11 you know, health care and people always suing in health</p> <p>12 care, that protects a caregiver especially when she's an</p> <p>13 independent contractor.</p> <p>14 So they should also have professional</p> <p>15 liability. There's also now, many insurance companies</p> <p>16 now offer more protection for them from like a Worker's</p> <p>17 Comp policy for them as well and that's optional for</p> <p>18 them, but the most important thing, the CPR card, the</p> <p>19 criminal background check and the CEUs that the state</p> <p>20 when they come to audit the office they make sure that</p> <p>21 these caregivers have.</p> <p>22 Now in Palm Beach County, there's an extra</p> <p>23 step. Now the county wants the caregivers to register</p> <p>24 with the county. So, now the county also is involved</p> <p>25 and who can be a caregiver, who cannot be caregiver.</p>
<p style="text-align: right;">Page 27</p> <p>1 A -- then I step in.</p> <p>2 Q Okay. And the state guidelines that tell All</p> <p>3 VIP how to higher caregivers are going to be the same</p> <p>4 from county to county, correct?</p> <p>5 A That is correct.</p> <p>6 Q So, please just tell me what those state</p> <p>7 guidelines basically say, what considerations does All</p> <p>8 VIP have to take or what factors does All VIP have to</p> <p>9 take into consideration when hiring a caregiver?</p> <p>10 A Okay. First thing I remember, we are in</p> <p>11 home -- we provide home care, so we are a nurse</p> <p>12 registry. For the nurse registry when we hire a</p> <p>13 caregiver, she's going to be the client's employee.</p> <p>14 This caregiver has to have a background check</p> <p>15 within the 50 states. So, that's a required and we</p> <p>16 must. So, we have to make sure she has and she needs to</p> <p>17 be -- to do this every five years.</p> <p>18 So, criminal background, she needs to have her</p> <p>19 HIV, HIVA certificate, CEU, she must have a medication</p> <p>20 management certificate. It's kind of like an assistance</p> <p>21 with medication management so she needs to know how to</p> <p>22 remind the client how to take the meds and what</p> <p>23 happened. That's key.</p> <p>24 She also needs to know about domestic violence</p> <p>25 because as a caregiver, if she sees that in the home,</p>	<p style="text-align: right;">Page 29</p> <p>1 That's not happening in Broward thou.</p> <p>2 Q Okay. When did on Palm Beach County start</p> <p>3 that mandate?</p> <p>4 A Oh, gosh. Maybe I think more than five years</p> <p>5 ago. It's been a while now, but it's only in Palm Beach</p> <p>6 County.</p> <p>7 Q And you mentioned that All VIP requires its</p> <p>8 caregivers to have professional liability insurance?</p> <p>9 A We do. I mean, it's not a mandate, mandated,</p> <p>10 but we do and it's for protection for the caregiver and</p> <p>11 the client.</p> <p>12 Q How does All VIP verify that the caregiver has</p> <p>13 professional liability insurance?</p> <p>14 A We ask them to provide the form, you know, the</p> <p>15 certificate of insurance or we can purchase it for them,</p> <p>16 you know, if they liked, this way we know for sure it's</p> <p>17 legit.</p> <p>18 Q If All VIP does purchase professional</p> <p>19 liability insurance for the caregiver, how is -- how</p> <p>20 does the caregiver reimburse All VIP?</p> <p>21 A It all depends. You know, sometimes they will</p> <p>22 say to us, "You know, we don't have any money right now,</p> <p>23 do you mind taking out of my earnings?" And so I did say</p> <p>24 yes or no, it all depends, you know, how well we know</p> <p>25 them or they'll give us a credit card information or</p>

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<p style="text-align: right;">Page 30</p> <p>1 they'll write us a check --</p> <p>2 Q Okay.</p> <p>3 A -- or they will give us a cash.</p> <p>4 Q Did Cruz Valdivieso come to All VIP already</p> <p>5 having professional liability insurance?</p> <p>6 A That I wouldn't know, but I -- if, you know,</p> <p>7 she would -- I don't know if she came, but she would</p> <p>8 definitely would have to get one because that's</p> <p>9 something we encourage them to do. Again, we encourage</p> <p>10 them to do it.</p> <p>11 Q Okay.</p> <p>12 A They are not, you know, they don't have to do</p> <p>13 it and then at that point if they decide not to do it,</p> <p>14 you know, we discussed with the client and it's up to</p> <p>15 the client to agree if they want to keep them or if they</p> <p>16 want us to replace the caregiver because again, it's up</p> <p>17 to the client to make that decision.</p> <p>18 Q Would -- do you think Diane Ramirez would</p> <p>19 better know if Cruz Valdivieso had professional</p> <p>20 liability insurance?</p> <p>21 A Yes, she would be better to know.</p> <p>22 Q So, --</p> <p>23 (Thereupon, a short discussion was held off</p> <p>24 record.)</p> <p>25 (Deposition resumed.)</p>	<p style="text-align: right;">Page 32</p> <p>1 Q And are -- does VIP, All VIP consider home</p> <p>2 health aides to be domestic service employees?</p> <p>3 A That depends. Can you be more specific?</p> <p>4 That's too general for me.</p> <p>5 Q Right. So, you previously mentioned that as</p> <p>6 an administrator for All VIP you're responsible for, I</p> <p>7 forget exactly how you worded it, but I think, you know,</p> <p>8 monitoring state and federal regulations that apply to</p> <p>9 the agency.</p> <p>10 A Um-hum.</p> <p>11 Q And so for the record that you said um-hum</p> <p>12 there --</p> <p>13 A I'm sorry.</p> <p>14 Q -- so let me re-ask the question.</p> <p>15 A I didn't --</p> <p>16 Q No, it's fine. Believe it's going to happen a</p> <p>17 few times during the deposition, it happens.</p> <p>18 Okay. So, let me just repeat that question.</p> <p>19 As an administrator for All VIP, you're responsible for</p> <p>20 monitoring the state and federal regulations that apply</p> <p>21 to the agency, correct?</p> <p>22 A Yes, I'm supposed to conduct audits and make</p> <p>23 sure that we're following guidelines.</p> <p>24 Q Okay. And as an administrator, are you aware</p> <p>25 that there is a title, a legal title called the domestic</p>
<p style="text-align: right;">Page 31</p> <p>1 BY MR. CUMMINGS:</p> <p>2 Q Okay. So Ms. McKinnon, I believe that your</p> <p>3 question, the record stopped running in the middle of</p> <p>4 your answer and essentially you were just explaining to</p> <p>5 me how All VIP finds its caregivers.</p> <p>6 So, you mentioned Craigslist, you said</p> <p>7 something about to going to reach now to medical schools</p> <p>8 and if you could just kind of pick up where you left off</p> <p>9 with your answers.</p> <p>10 A The medical schools.</p> <p>11 Q Okay.</p> <p>12 A We go to the medical schools and we asked them</p> <p>13 to please refer over their top students and many times</p> <p>14 client they'll send over caregivers as well.</p> <p>15 Q The clients already have --</p> <p>16 A Yeah, many times --</p> <p>17 Q Okay.</p> <p>18 A -- they'll refer caregivers over.</p> <p>19 Q And Cruz Valdivieso case, do you know how All</p> <p>20 VIP came to contact her or who made contact with who</p> <p>21 first?</p> <p>22 A No. And that again, that would probably be a</p> <p>23 good question for Diana Ramirez, I mean, I can guess</p> <p>24 either the correct list or maybe the client referred</p> <p>25 her, I mean, but that's just a guess.</p>	<p style="text-align: right;">Page 33</p> <p>1 service employee?</p> <p>2 A Never heard of it here in all my years in</p> <p>3 homecare. So, I -- we don't use it obviously. I've</p> <p>4 been doing this for many years in home health and we've</p> <p>5 never used it. So, I don't know.</p> <p>6 Q Are you familiar with the Fair Labor Standards</p> <p>7 Act?</p> <p>8 A Yes, I am. I have to be.</p> <p>9 Q Why is it?</p> <p>10 A Because as a nurse registry we have to make</p> <p>11 sure that when we hire independent contractors, that we</p> <p>12 treat them as such and when they walk into his office</p> <p>13 and they apply, that they're aware that they're</p> <p>14 independent contractors and that they're aware that they</p> <p>15 are the employees of the client, not the agents.</p> <p>16 Q What is All VIPs relationship to its home</p> <p>17 health aides?</p> <p>18 A We process the application, we interview them,</p> <p>19 we make sure that they meet state and federal guidelines</p> <p>20 and we pay them on a weekly basis or when the client</p> <p>21 pays because many clients don't want to be bothered with</p> <p>22 money with their caregivers. That's too messy for them.</p> <p>23 Q And so does All VIPs serve as a middleman</p> <p>24 between the caregiver and the client?</p> <p>25 A Yes and the insurance company.</p>

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<p style="text-align: right;">Page 34</p> <p>1 Q And you mentioned that you have to be familiar</p> <p>2 with the FLSA to make sure that -- let's just stick with</p> <p>3 home health aides in particular, are being treated as</p> <p>4 independent contractors. What did you mean by that?</p> <p>5 A Well, for instance when they come in, you</p> <p>6 know, we give them all the information that they need to</p> <p>7 know the independent contractors.</p> <p>8 We also give them the option if they want to</p> <p>9 go out and get their own tax ID number versus using</p> <p>10 their -- Social Security Number.</p> <p>11 We talked to them about overtime, we tell them</p> <p>12 as an independent contractor they can work over 40</p> <p>13 hours, but they are not entitled to overtime.</p> <p>14 We also talked to them about holiday pay,</p> <p>15 they're not entitled to that either. However, if the</p> <p>16 client wants to pay, how are they time, you know, time</p> <p>17 and a half, what have you, that's okay, we can discuss</p> <p>18 that with the client and we let them know that they are</p> <p>19 the employees of the client.</p> <p>20 We monitor the client services, when it comes</p> <p>21 to them we just make sure that they are meeting federal</p> <p>22 and state regulations because if we do not AHCA, the</p> <p>23 state will close us down if not give us a hefty fine.</p> <p>24 Q And A-C-A is that what you're referring to?</p> <p>25 A A-H-C-A, AHCA. I'm sorry.</p>	<p style="text-align: right;">Page 36</p> <p>1 They check their application. They make sure</p> <p>2 that we are letting these caregivers know that they're</p> <p>3 independent contractors. They check.</p> <p>4 They check for signatures. They check that we</p> <p>5 make sure that we discuss salary. They check all of</p> <p>6 that when they come to do the inspections.</p> <p>7 Q But normally ACHA is only going per All VIP</p> <p>8 office, not to every single office for one inspection?</p> <p>9 A Exactly. They go for one office. So, for</p> <p>10 Palm Beach County, it's for the license, they will come</p> <p>11 to West Palm Beach. For Broward County, they're going</p> <p>12 to go to Deerfield Beach to do an inspection.</p> <p>13 Q Okay. The -- is ACHA required to do an</p> <p>14 inspection at any particular interval, like, is it like</p> <p>15 once a year or its just random?</p> <p>16 A I think while in all my years they usually do</p> <p>17 it, like, every two years usually. After COVID-19</p> <p>18 things changed a lot, you know, they don't come as often</p> <p>19 as they used to, but they normally come, like, every two</p> <p>20 years unannounced.</p> <p>21 Q Got it. Going back to overtime, you mentioned</p> <p>22 that All VIP home health aides are informed that they're</p> <p>23 not entitled to overtime. Is that correct?</p> <p>24 A That is very correct.</p> <p>25 Q How are they told that or what point in their</p>
<p style="text-align: right;">Page 35</p> <p>1 Q A-H-C-A.</p> <p>2 A A-H-C-A, AHCA.</p> <p>3 Q What -- do you know what that stands for?</p> <p>4 A Agency of Health Care Administration.</p> <p>5 Q Okay. Does that agency ACHA provide audits</p> <p>6 or -- sorry, not provide. Does that agency do audits of</p> <p>7 All VIP?</p> <p>8 A They do. They do inspection. They do. They</p> <p>9 do inspection. We just had one recently as a matter of</p> <p>10 fact in the Palm Beach office.</p> <p>11 Q Okay. And when you say inspections, what is</p> <p>12 ACHA inspecting for?</p> <p>13 A They inspect the records, they inspect how we</p> <p>14 get -- how we get our referrals, how we process those</p> <p>15 referrals and then they check the caregivers that we</p> <p>16 assigned to these clients, you know, that we refer to</p> <p>17 work with the clients, they check their records to make</p> <p>18 sure they are meeting state and federal guidelines.</p> <p>19 Like they made sure that they have a good</p> <p>20 criminal background check. They made sure that they</p> <p>21 have a CPR card that is not expired.</p> <p>22 That they have the HIVA certificate. That,</p> <p>23 you know, that they know that they have Alzheimer's</p> <p>24 certificate on file, domestic violence certificate on</p> <p>25 file, so they check for those things.</p>	<p style="text-align: right;">Page 37</p> <p>1 employment are they told that?</p> <p>2 A They're told the moment they walk in and they</p> <p>3 get that their application. In fact, one of the reasons</p> <p>4 many clients come to us is because they appreciate the</p> <p>5 fact that the independent contractors can work more than</p> <p>6 40 hours.</p> <p>7 Q And when you say come to us, do you mean All</p> <p>8 VIP in particular?</p> <p>9 A All VIP in particular or any nurse registry.</p> <p>10 This was specifically through during COVID-19. Many</p> <p>11 clients did not want three or four caregivers coming</p> <p>12 into their rooms, in and out.</p> <p>13 Q Okay. So sometimes because of the</p> <p>14 restrictions on hours some home health aides can only</p> <p>15 work 40 hours and therefore clients have to be assigned</p> <p>16 different caregivers?</p> <p>17 A Well, if we're talking about a home health</p> <p>18 agency which is different than home nurse registry,</p> <p>19 those home health agencies, they have to pay for all the</p> <p>20 time after 40 hours and they can supervise their</p> <p>21 caregivers, they -- then they must pay them, but a nurse</p> <p>22 registry, we do not supervise the caregivers. We</p> <p>23 monitor our services with the client. We work for the</p> <p>24 client.</p> <p>25 In that particular instance, an independent</p>

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<p style="text-align: right;">Page 38</p> <p>1 contractor can work 40 hours or more if the client</p> <p>2 desires that.</p> <p>3 Q So, the client is always the one who</p> <p>4 determines the number of hours that the caregivers</p> <p>5 provide?</p> <p>6 A Yes and no, because remember, if it's private,</p> <p>7 yes. If it's insurance, if the insurance company has</p> <p>8 paid for it, no.</p> <p>9 Q Understood. Okay. Got it. So, the client is</p> <p>10 paying out of pocket, they get to make the rules.</p> <p>11 A A client.</p> <p>12 Q A client does.</p> <p>13 A And many times that is when that -- when it's</p> <p>14 a private client, there's a negotiation process. The</p> <p>15 client will either discuss it with the caregiver because</p> <p>16 we will refer the caregiver to the client and at that</p> <p>17 point when they need, they can also discuss salary, they</p> <p>18 can discuss the hours, they can discuss the duties, the</p> <p>19 tasks, all of that stuff without even the agency</p> <p>20 involved.</p> <p>21 Q Interesting. So, once All VIP assigns a</p> <p>22 caregiver, let's say more specifically once All VIPs</p> <p>23 assign a home health aide to a client, then the client</p> <p>24 is essentially paying for the service to the caregiver?</p> <p>25 A No, it's up to the client, but most clients</p>	<p style="text-align: right;">Page 40</p> <p>1 Q Okay. And how do you recognize this type of a</p> <p>2 document?</p> <p>3 A Well, because it's the one we gave our</p> <p>4 caregivers, it's the one that ACHA approved when I first</p> <p>5 opened the business.</p> <p>6 It's the one we've been using since 2016 and</p> <p>7 that's our timesheet that we give to caregivers.</p> <p>8 Q You mentioned that the caregivers are supposed</p> <p>9 to sign off on these timesheets. Is that the-</p> <p>10 A That is correct.</p> <p>11 Q Is that the line at the bottom that says</p> <p>12 client signature?</p> <p>13 A That is supposed to be a client signature on</p> <p>14 the bottom approving the timesheet.</p> <p>15 Q Okay. And who provides the timesheet to the</p> <p>16 client, is it the caregiver?</p> <p>17 A That's right.</p> <p>18 Q Okay.</p> <p>19 A And the client is supposed to read it and if</p> <p>20 they approve, the client has to prove. They signed it.</p> <p>21 Q Now what I'm showing you is a 53 page document</p> <p>22 and it has different timesheets. These were provided by</p> <p>23 your company, by All VIP.</p> <p>24 I'm not sure if you're aware of that and that,</p> <p>25 but that's why it has these numbers at the bottom of</p>
<p style="text-align: right;">Page 39</p> <p>1 don't want to do that. They have the option, of course,</p> <p>2 but most clients don't want to do that because it</p> <p>3 becomes too messy. So, they don't want -- they don't</p> <p>4 want to be involved with that.</p> <p>5 So, they'll set up an account with us I say</p> <p>6 with a credit card and they'll tell the agency charge,</p> <p>7 you know, charge the credit card once a month or every</p> <p>8 two weeks or weekly, what have you.</p> <p>9 The client was will let us know how they're</p> <p>10 going to pay for services. The client will also sign a</p> <p>11 timesheet indicating that the caregiver did work those</p> <p>12 hours, okay, you may pay her.</p> <p>13 Q Got it. Okay. So, stay tuned for a second.</p> <p>14 So I'm going to show you an exhibit. Okay. Ms.</p> <p>15 McKinnon, I'm now showing you what I'm marking as --</p> <p>16 A A timesheet.</p> <p>17 Q Oh, yeah. I'm showing you what I'm marking as</p> <p>18 Exhibit B for the deposition record.</p> <p>19 (Thereupon, Plaintiff's Exhibit B was entered</p> <p>20 into the record.)</p> <p>21 BY MR. CUMMINGS:</p> <p>22 Q And you just mentioned that this is a</p> <p>23 timesheet. So, my first question to you was going to</p> <p>24 be, do you recognized a document like this?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 41</p> <p>1 each page where it says VIP docs.</p> <p>2 That's what we call a Bates stamp number. So,</p> <p>3 just for the record, for the deposition record I am</p> <p>4 showing Ms. McKinnon the document that's Bate Stamp</p> <p>5 Number 11, VIP docs Number 11, which is a timesheet.</p> <p>6 Okay. Now on these timesheets, let's just</p> <p>7 stick to the first one I'm showing you here on Page 1.</p> <p>8 I see on the left hand side there's a column filled</p> <p>9 with, it looks like different activities.</p> <p>10 Who marks off the activities that were being</p> <p>11 performed for the client?</p> <p>12 A The caregiver.</p> <p>13 Q Got it. And does the caregiver also put</p> <p>14 the -- fill in the time in and time out portions of the</p> <p>15 timesheet?</p> <p>16 A Yes.</p> <p>17 Q Is it fair to say that the caregiver is</p> <p>18 responsible for filling out everything except the part</p> <p>19 that says client signature on a timesheet?</p> <p>20 A That's very fair.</p> <p>21 Q Are there different timesheets for different</p> <p>22 types of All VIP personnel, meaning, does a home health</p> <p>23 care aide have a different list of activities than a</p> <p>24 certified nursing assistant?</p> <p>25 A No, and there's no need.</p>

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<p style="text-align: right;">Page 42</p> <p>1 Q Why is that?</p> <p>2 A Because in home care a CNA will not be working</p> <p>3 normally with an RN. A CNA is more for facilities, for</p> <p>4 hospitals because they work under our RN. In home care,</p> <p>5 it's very rare to have a working under an RN.</p> <p>6 Q Okay.</p> <p>7 A And in hospital CNAs don't clean. In a home</p> <p>8 environment, yes, they do. They have to do light</p> <p>9 housekeeping.</p> <p>10 Q Understood. Okay. And so just to clarify</p> <p>11 what you're saying, home health aides and CNAs will both</p> <p>12 use the type of timesheet that we see here if they're</p> <p>13 providing in-home care to a patient?</p> <p>14 A Yes, they will use the same timesheet.</p> <p>15 Q Are timesheets only used by people providing</p> <p>16 non-medical services for All VIP?</p> <p>17 A That timesheet predominantly, yes.</p> <p>18 Q Who are timesheets ultimately turned into once</p> <p>19 they're completed?</p> <p>20 A They send them to their office. They can, you</p> <p>21 know, in this case they will be sending it to Broward</p> <p>22 office so they can be processed and they can get paid</p> <p>23 and we can submit the invoice to the insurance company.</p> <p>24 Q Okay. If it's insured that's paying for the</p> <p>25 service, then it goes to the insurance company?</p>	<p style="text-align: right;">Page 44</p> <p>1 registered automatically.</p> <p>2 Q How do home health aides like Ms. Cruz clock</p> <p>3 in and out?</p> <p>4 A There is a software which we pay for. In this</p> <p>5 case is HHAexchange and it's approved by the state.</p> <p>6 Q Is HHAeXchange an application that would be on</p> <p>7 somebody's phone?</p> <p>8 A Yes.</p> <p>9 Q Does that mean that all home health aides are</p> <p>10 required to have a smartphone so that they can use the</p> <p>11 HHA application?</p> <p>12 A They are required or they can use if the</p> <p>13 client has a home phone, you know, a landline, they can</p> <p>14 use that as well.</p> <p>15 Q So, home health aides also have the option of</p> <p>16 calling a number to clock in and clock out?</p> <p>17 A That is correct.</p> <p>18 Q Through HHAeXchange?</p> <p>19 A Yes.</p> <p>20 Q When did you first become aware or when did</p> <p>21 All VIP first become aware of issues with Ms. Cruz not</p> <p>22 clocking in and out?</p> <p>23 A A long time ago and it was addressed to her.</p> <p>24 Q Did you, Ms. McKinnon ever personally speak to</p> <p>25 Cruz Valdivieso about clocking in and clocking out?</p>
<p style="text-align: right;">Page 43</p> <p>1 A The insurance company will get an invoice,</p> <p>2 this will stay in the record, so if the insurance</p> <p>3 company wants to come to the office and do an audit,</p> <p>4 they can review.</p> <p>5 Q Well, what I'm trying to -- let me just take</p> <p>6 this down for a second. What I'm mainly asking what the</p> <p>7 question is, you said that the timesheets will be</p> <p>8 submitted to insurance companies, but not all patients</p> <p>9 are paying through an insurance company, correct?</p> <p>10 A Yeah. We don't, in this case for Medicaid we</p> <p>11 do not send them the timesheets. We only send them the</p> <p>12 invoice.</p> <p>13 The timesheet stayed in the clients file for</p> <p>14 two reasons. For the state ACHA when they come to do an</p> <p>15 inspection, they might want to see that file and if the</p> <p>16 insurance company wants to come in and conduct an audit.</p> <p>17 So, those timesheet must stay in the clients file.</p> <p>18 Q Got it. You mentioned that the caregivers</p> <p>19 will e-mail the timesheet back into the office?</p> <p>20 A They can, but, you know, but more importantly</p> <p>21 they're supposed to be clocking in and clocking out and</p> <p>22 that's another state regulation.</p> <p>23 In this case, Ms. Cruz never clocked in and</p> <p>24 never clocked out. Once they do that, there's no need</p> <p>25 to be sending over the timesheets because that is</p>	<p style="text-align: right;">Page 45</p> <p>1 A I sure did when she came into this office to</p> <p>2 get a paycheck where she says that she wasn't paid</p> <p>3 correctly and I reminded her to avoid those issues, to</p> <p>4 please clock in and clock out.</p> <p>5 Furthermore, because I'm not supposed to be</p> <p>6 bossing her around, you know, because she's an</p> <p>7 independent contractor, I made it very clear to her,</p> <p>8 it's not my rule, it's the state, the federal</p> <p>9 government, State and federal government and we have to</p> <p>10 follow these guidelines.</p> <p>11 Q The incident that or the time that you were</p> <p>12 talking about when you spoke to Ms. Cruz Valdivieso, is</p> <p>13 that the same time when you said you would only really</p> <p>14 met her once because she came in for a pay issue?</p> <p>15 A Yeah, I remember maybe seeing her maybe once</p> <p>16 or twice, you know, I have over thousand caregiver, so</p> <p>17 sometimes, you know, it's hard for me, you know, to</p> <p>18 remember.</p> <p>19 I didn't really have an, you know, I didn't</p> <p>20 really have a relationship with her. That was more</p> <p>21 Diana Ramirez in that office and, you know, in Deerfield</p> <p>22 Beach.</p> <p>23 I did hear of her and because of the payroll,</p> <p>24 you know, situation and of course, you know, when she --</p> <p>25 when we ended, you know, when we took her off the</p>

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<p style="text-align: right;">Page 46</p> <p>1 roster, when we had that situation, that's pretty much,</p> <p>2 you know, when I was involved with her --</p> <p>3 Q Okay.</p> <p>4 A -- but I do recall seeing her here, I do</p> <p>5 recall writing her manual check, I do recall speaking to</p> <p>6 her. That much I do recall.</p> <p>7 Q When you say manual check, you mean actual</p> <p>8 physical check that was given to her --</p> <p>9 A Yeah.</p> <p>10 Q -- instead of direct deposit?</p> <p>11 A Yes.</p> <p>12 Q Okay. Just to go back a little bit. Did Cruz</p> <p>13 Valdivieso have the HHAeXchange application on her</p> <p>14 phone?</p> <p>15 A She should.</p> <p>16 Q Would Diana Ramirez be a better person ask</p> <p>17 that question to?</p> <p>18 A She -- yes, she would be definitely, but, you</p> <p>19 know, let me see if I can check here quickly, but yeah,</p> <p>20 definitely Diana would be the one.</p> <p>21 She definitely knew because I can tell by</p> <p>22 checking the computer, I have her caregiver code, a</p> <p>23 mobile ID number. So, she was definitely informed and</p> <p>24 she definitely downloaded the software on her</p> <p>25 smartphone.</p>	<p style="text-align: right;">Page 48</p> <p>1 also come here to the office and we help them. I also</p> <p>2 send out -- through HHAeXchange I can send messages to</p> <p>3 the caregivers.</p> <p>4 I've said numerous times, messages to them, go</p> <p>5 to YouTube, because there are tutorials on YouTube in</p> <p>6 Spanish as well which this can help her tremendously.</p> <p>7 So, we've covered this numerous times with the</p> <p>8 caregivers, in English and Spanish.</p> <p>9 Q Did Cruz Valdivieso ever complained that she</p> <p>10 was having issues clocking in and clocking out through</p> <p>11 HHAeXchange?</p> <p>12 A Not to me, so I don't recall, she could have,</p> <p>13 but again, I'm sorry, I cannot -- I don't recall. Maybe</p> <p>14 Diana Ramirez maybe, but I don't recall having that</p> <p>15 conversation with her.</p> <p>16 Q So, at what point -- how often are All VIP</p> <p>17 home health aides paid by All VIP?</p> <p>18 A That depends. If they clock in and clock out</p> <p>19 or submit their timesheets as they're supposed to, they</p> <p>20 can get paid every Friday.</p> <p>21 If not, they will get paid when the client</p> <p>22 pays or the insurance company pays and we tell them that</p> <p>23 as well. They are independent contractors.</p> <p>24 Q So, essentially does the client or the</p> <p>25 insurance company paying for the services that they were</p>
<p style="text-align: right;">Page 47</p> <p>1 Q Okay. So, All VIP has a way to verify if a</p> <p>2 caregiver had the software on their phone?</p> <p>3 A Absolutely.</p> <p>4 Q Okay. And it's in a database that you just</p> <p>5 refer to?</p> <p>6 A Yes, an HHAeXchange.</p> <p>7 Q Oh, I see. Okay. And does HHAeXchange, like</p> <p>8 an online account that All VIP has?</p> <p>9 A It's like a software that we, you know, that</p> <p>10 we use and we pay for. It can also be free, I mean, it</p> <p>11 all depends, you know, what you sign up for because it</p> <p>12 is state mandated.</p> <p>13 So, therefore the state also pays for this</p> <p>14 program and any agency that has a contract with Medicaid</p> <p>15 needs to use this software.</p> <p>16 Q At what point in the hiring process are</p> <p>17 caregivers told that they will have to use HHAeXchange</p> <p>18 to clock in and clock out?</p> <p>19 A The very beginning. Especially if they're</p> <p>20 going to work for a Medicaid client.</p> <p>21 Q Is there paperwork that or like onboarding</p> <p>22 paperwork that caregivers are provided with that</p> <p>23 explains the HHAeXchange process for clocking in and</p> <p>24 clocking out?</p> <p>25 A Yes, especially they need it. Yes. They can</p>	<p style="text-align: right;">Page 49</p> <p>1 given and then All VIP allocates that amount of money to</p> <p>2 pay the caregiver?</p> <p>3 A Yes, we bill, they send us the money and they</p> <p>4 are usually pretty good. They usually pay every week</p> <p>5 and we send that over to the caregivers. That's what</p> <p>6 we're supposed to do.</p> <p>7 We're supposed to pay the caregivers. We're</p> <p>8 getting that money so we can pay the caregivers so that</p> <p>9 the client can continue receiving services.</p> <p>10 Q Does All VIP -- does All VIPs profit come from</p> <p>11 the difference in the service that's provided to the</p> <p>12 caregiver and the amount that's actually charged to the</p> <p>13 care -- I'm sorry, the other way around.</p> <p>14 Does All VIPs profit come from the difference</p> <p>15 in the service that's being provided to the patient and</p> <p>16 the amount that All VIP charges for that service?</p> <p>17 A Trying to see if I understand that. Let's</p> <p>18 see. So, I'm going to make sure I answered this</p> <p>19 question correctly. I'm not sure if I understood.</p> <p>20 Q Okay. And so let me see if I can clarify a</p> <p>21 little bit by giving a number example and I'll just used</p> <p>22 fairly basic numbers for the point of an example.</p> <p>23 So for -- let's say a home health aide is with</p> <p>24 a client all day long and those services are being</p> <p>25 charged at or I guess the value of those services is,</p>

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<p style="text-align: right;">Page 50</p> <p>1 you know, \$20 for the day. Okay.</p> <p>2 Does All VIP then send a bill for \$30 to the</p> <p>3 client?</p> <p>4 A All VIP care, it's kind of like a staffing</p> <p>5 agency, that's how we, you know, I'm not sure if you</p> <p>6 ever use a temp before in your office, you negotiate a</p> <p>7 rate and that's what you bill and so that's what we do.</p> <p>8 If the rate is \$20 an hour and the aide is there, let's</p> <p>9 say three hours, that's what we bill.</p> <p>10 If the contract says that the aide is supposed</p> <p>11 to be there four hours, but yet the aide only work</p> <p>12 three, we still bill what the aide worked.</p> <p>13 Q All right.</p> <p>14 A So, again, we -- our profit and the way we do</p> <p>15 business, run business just has a staffing company does.</p> <p>16 Q Okay.</p> <p>17 A And I hope I answered that correctly because</p> <p>18 I'm still a little confused.</p> <p>19 Q No. I get it. I understand. Okay.</p> <p>20 Understood. All right. Are there ever situations where</p> <p>21 a home health aide is providing services to patients,</p> <p>22 but they are not being compensated for the services that</p> <p>23 they're providing?</p> <p>24 A That's not the plan, mean, that's not supposed</p> <p>25 to happen. Usually, you know, if you work, you're</p>	<p style="text-align: right;">Page 52</p> <p>1 Q Okay. And if a client does not pay for</p> <p>2 services that have been rendered to them, what is ALL</p> <p>3 VIPs role in trying to obtain payment from them?</p> <p>4 A Well we would try to help as much as possible,</p> <p>5 but again, because they're independent contractors, they</p> <p>6 will have to sue the client in Court.</p> <p>7 Q Are the caregivers informed that they would</p> <p>8 have to sue clients in Court if clients aren't paying?</p> <p>9 A Oh, yes. And again like I said, you know,</p> <p>10 these caregivers are not only -- they don't just</p> <p>11 register one agency, they register with multiple</p> <p>12 agencies and trust me, they all get the same</p> <p>13 information.</p> <p>14 So, let's just say for argument's sake that</p> <p>15 All VIP Care neglected to tell them. Well, guess what?</p> <p>16 The other five agencies that they register with, one of</p> <p>17 them told them. So, maybe all four told them.</p> <p>18 So, you know, a caregiver that has experience,</p> <p>19 has been a caregiver for more than a year or three, 10</p> <p>20 years is well versed. She knows.</p> <p>21 Q If -- so, another example or another situation</p> <p>22 does -- what does All VIP do when an insurance company</p> <p>23 is not paying for a service that has been rendered by</p> <p>24 caregiver?</p> <p>25 A Well, for insurance company we normally, we</p>
<p style="text-align: right;">Page 51</p> <p>1 entitled to get paid.</p> <p>2 Q Right.</p> <p>3 A What kind of reputation would I have in the</p> <p>4 community if we will be -- if we behave in that fashion,</p> <p>5 so.</p> <p>6 Q Right. But are there situations where home</p> <p>7 health aides, you know, fill out their timesheets, they</p> <p>8 clock in and clock out correctly and once the time</p> <p>9 sheets are submitted, they're waiting to be paid because</p> <p>10 either the client didn't pay or the insurance company</p> <p>11 did not pay?</p> <p>12 A That is correct. On those two that you just</p> <p>13 said there, those two reasons, yes, they may not get</p> <p>14 paid and that is told to them in the beginning, they are</p> <p>15 independent contractor.</p> <p>16 So, you're going to get paid, there might be a</p> <p>17 problem in your pay, don't expect to get paid like an</p> <p>18 employee does at a company, you know. It's different.</p> <p>19 So, and we usually tell them, you know, we'll</p> <p>20 call them up and we'll talk to them, you know, we don't</p> <p>21 want them expecting a paycheck when they're not going to</p> <p>22 receive one and we also call clients as well and we'll</p> <p>23 also call the insurance provider if we need to, we also</p> <p>24 let them know as well and sometimes even ACHA, the state</p> <p>25 will get involved too if need be.</p>	<p style="text-align: right;">Page 53</p> <p>1 will call them and many times there will be case</p> <p>2 managers involved for the, you know, that represent the</p> <p>3 insurance company.</p> <p>4 So, we call the case manager and we'll speak</p> <p>5 to the case manager and many times, you know, just by</p> <p>6 calling the case manager, we'll get that resolved and</p> <p>7 once that we get an authorization that insurance company</p> <p>8 says we're going to pay you, we definitely pay the</p> <p>9 caregiver --</p> <p>10 Q Okay.</p> <p>11 A -- because that money belongs to caregiver.</p> <p>12 Q Do caregivers -- are caregivers informed that</p> <p>13 they may have to sue the insurance company for their</p> <p>14 opinion?</p> <p>15 A No, they don't really have to -- they don't</p> <p>16 have to sue the insurance company because the insurance</p> <p>17 company will send the agency an authorization, you see.</p> <p>18 So, once the agency has an authorization, the</p> <p>19 agency can actually take that on with the insurance</p> <p>20 company as long as we have an authorization.</p> <p>21 Q And the authorization is that essentially a</p> <p>22 contract?</p> <p>23 A It's part of the contract.</p> <p>24 Q Okay. But the authorization is approving the</p> <p>25 amount of time and the type of service that the</p>

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<p style="text-align: right;">Page 54</p> <p>1 caregiver can give to the client?</p> <p>2 A That is correct.</p> <p>3 Q And so that's something that All VIP can</p> <p>4 always wave back in front of the insured and say, okay,</p> <p>5 this is what you authorize, this is what it was</p> <p>6 provided, therefore provided this payment to the</p> <p>7 caregiver.</p> <p>8 A That is correct and that's what the</p> <p>9 authorization is all about, it's to ensure payment.</p> <p>10 Q Now, does the authorization ensure payment</p> <p>11 only to the caregiver or also to All VIP?</p> <p>12 A It's also to All VIP Care plus the caregiver.</p> <p>13 Q When patients are making payment for caregiver</p> <p>14 service, are they writing two separate checks, one for</p> <p>15 the caregiver and one for All VIP?</p> <p>16 A No, because like I mentioned in the beginning,</p> <p>17 patients don't want to do that, it's too messy for them.</p> <p>18 Especially when -- remember that -- please</p> <p>19 keep in mind that our clients were predominantly</p> <p>20 seniors, they're 80, they are 90 years old, they do not</p> <p>21 want to be involved with that.</p> <p>22 Q And so I understand what you're saying, they</p> <p>23 don't want to be involved with the payment, but if they</p> <p>24 are paying, then they have to be paying somehow.</p> <p>25 So, what happens to their payment, how does it</p>	<p style="text-align: right;">Page 56</p> <p>1 A No, they don't have to give us any payment,</p> <p>2 they will just be -- they'll just be getting --</p> <p>3 hopefully, they'll just be getting their share, but if a</p> <p>4 client gives him a check that includes our fee then,</p> <p>5 yes, they have to bring the check over to the office.</p> <p>6 Q Understood. Okay. As far as you know, is</p> <p>7 there any allegation that Cruz Valdivieso kept any money</p> <p>8 that was supposed to go to All VIP?</p> <p>9 A No. I do know that she was getting paid. It's</p> <p>10 my understanding that the clients were paying her</p> <p>11 privately as well which is against the contract that she</p> <p>12 signed, but in any case, in any event, you know, the</p> <p>13 clients liked her, they were happy with her. That I</p> <p>14 guess --</p> <p>15 Q Yeah. Sorry. Go ahead.</p> <p>16 A I guess that's what matters, you know, they</p> <p>17 were happy and services as far as I was concerned with,</p> <p>18 you know, they were being provided and that's what's</p> <p>19 important, you know, at the end of the day.</p> <p>20 Q Right. When you say Ms. Valdivieso was being</p> <p>21 paid privately by the clients, what do you mean?</p> <p>22 A The client that were using her for extra</p> <p>23 hours, they were utilizing the services beyond what the</p> <p>24 insurance company authorized.</p> <p>25 So she, I guess had this agreement with the</p>
<p style="text-align: right;">Page 55</p> <p>1 get split up and the portion for the caregiver gets sent</p> <p>2 out to the caregiver, does All VIP taken all the money</p> <p>3 and then cuts a check to the caregiver as a 1099</p> <p>4 payment?</p> <p>5 A Normally, okay, we bill the client, the client</p> <p>6 sends us a check for everything. For our fee, plus the</p> <p>7 caregivers rate and then we cut a check to the</p> <p>8 caregiver.</p> <p>9 There are times where the client can pay the</p> <p>10 caregiver directly and that has happened, but it's not</p> <p>11 very often that happens and then they will just pay the</p> <p>12 caregiver directly and then they will send us whatever</p> <p>13 they need to send the agency, but that doesn't happen</p> <p>14 very often, clients do not want to engage with that,</p> <p>15 they just don't.</p> <p>16 Q Are there ever a situations where a client</p> <p>17 will give the caregiver the money for the caregiver</p> <p>18 services and All VIPs fees?</p> <p>19 A Yes, but it's very rare.</p> <p>20 Q Okay.</p> <p>21 A Very rare. Can it happen? Of course, but</p> <p>22 it's very rare.</p> <p>23 Q And then in that situation, the caregiver is</p> <p>24 now responsible for taking the payment back to All VIP,</p> <p>25 to wherever their home office is?</p>	<p style="text-align: right;">Page 57</p> <p>1 family where she was working extra hours in the family,</p> <p>2 we're paying her directly.</p> <p>3 Again, you know, it's against the contract,</p> <p>4 but, you know, like I said, clients were happy and we</p> <p>5 just left it at that.</p> <p>6 Q Okay. Now the clients that you're referring</p> <p>7 to were Ms. Cruz was working extra hours, is this one</p> <p>8 particular client or was this more than one client that</p> <p>9 All VIP assigned Ms. Cruz to?</p> <p>10 A I think she had like three if I recall when I</p> <p>11 was -- when I was looking into her case and what took</p> <p>12 place. I believe she had three clients.</p> <p>13 Q That she was working on authorized hours for?</p> <p>14 A No, just two because I believe there were a</p> <p>15 couple if I'm correct, it was a couple and I believe</p> <p>16 they were two.</p> <p>17 Q Okay. And you're saying that the couple, each</p> <p>18 were individual patients for All VIP?</p> <p>19 A That's correct. They each had their</p> <p>20 authorization through Medicaid.</p> <p>21 Q And I think in your previous statement, what</p> <p>22 you were attempting to say was that All VIP had only</p> <p>23 assigned Ms. Cruz Valdivieso to three client's total?</p> <p>24 A No, it's the -- well, it's not that just only.</p> <p>25 When I was involved with her situation here at the</p>

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<p style="text-align: right;">Page 58</p> <p>1 office, I noticed she had three.</p> <p>2 She could have been -- she could have been</p> <p>3 assigned to more, but it all depends, because she's</p> <p>4 working 50, 60 hours a week, I mean, there's just so</p> <p>5 many clients that you can have in one week.</p> <p>6 Q Okay. Understood. Is All VIP claiming that</p> <p>7 Ms. Cruz Valdivieso was stealing time while she was</p> <p>8 working for All VIP?</p> <p>9 A I wouldn't say she was stealing time. I'm just</p> <p>10 going to say that she, you know, she ignore her</p> <p>11 contract. She's not supposed to be working privately</p> <p>12 for our clients.</p> <p>13 When you refer an independent contractor to</p> <p>14 the clients, they're not supposed to be working</p> <p>15 privately for the client with our knowledge and that's</p> <p>16 what she did.</p> <p>17 Q Is that essentially like moonlighting?</p> <p>18 A No. That's -- no, that's not moonlighting.</p> <p>19 Q Okay. So when you say working privately for</p> <p>20 the clients, that means specifically that she's working</p> <p>21 hours that were not authorized by the insurance company?</p> <p>22 A Not authorized by the insurance company, but</p> <p>23 not -- but it is also a contract where it specifically</p> <p>24 states that you're not allowed to do that because in</p> <p>25 essence she's, you know, she's -- they are just not</p>	<p style="text-align: right;">Page 60</p> <p>1 A I was, you know, I just said look, you know,</p> <p>2 the client is happy, so let's just, let it be, you know.</p> <p>3 Q At any point, did you become aware that the</p> <p>4 clients themselves were making complaints against All</p> <p>5 VIP?</p> <p>6 A No, the only time I spoke -- perhaps I spoke</p> <p>7 to one of them, maybe a daughter or something was when</p> <p>8 she was calling it to discuss her pay or something, but</p> <p>9 why would there be any complains when they were happy</p> <p>10 with the caregiver, when they had her working extra</p> <p>11 hours be on the Medicare authorization.</p> <p>12 No, there is no complaint, it makes absolutely</p> <p>13 no sense.</p> <p>14 Q At any point did you become aware that</p> <p>15 Ms. Cruz was making complaints against All VIP about her</p> <p>16 payment?</p> <p>17 A Yes, that we --</p> <p>18 Q Okay.</p> <p>19 A And that only with this client, but with</p> <p>20 another client.</p> <p>21 Q Okay. So, let me just pull up a couple of</p> <p>22 documents so we can be -- we can make sure we're talking</p> <p>23 about the same clients.</p> <p>24 Okay. I'm now going to show you what I'm</p> <p>25 marking as Exhibit C for the deposition record.</p>
<p style="text-align: right;">Page 59</p> <p>1 allowed to do that. It goes against the values, it goes</p> <p>2 against the contract, it goes against the business</p> <p>3 model, you're not allowed to be working for the client</p> <p>4 without the agency being aware of it and that's what she</p> <p>5 was told.</p> <p>6 Q Okay. How did the agency become aware or how</p> <p>7 did All VIP become aware that Ms. Valdivieso was</p> <p>8 providing hours without authorization?</p> <p>9 A I became aware to Diana Ramirez, she brought</p> <p>10 it to my attention.</p> <p>11 Q What did Ms. Ramirez tell you?</p> <p>12 A She was working privately for the clients.</p> <p>13 Q Okay. And do you know how Ms. Ramirez found</p> <p>14 that information out?</p> <p>15 A No, I don't, but I, you know, I mean, I hate</p> <p>16 to assume, but I -- probably, you know, in general when</p> <p>17 we find out these things, usually because there was an</p> <p>18 issue, you know, so there was an issue and when she</p> <p>19 delved into it, that's when she discovered, but again,</p> <p>20 that's something that perhaps she should answer so that</p> <p>21 we can be accurate.</p> <p>22 Q Okay. But when you found out -- when</p> <p>23 Ms. Ramirez told you that there was an issue with</p> <p>24 Ms. Cruz providing an authorized hours, what was your</p> <p>25 response?</p>	<p style="text-align: right;">Page 61</p> <p>1 (Thereupon, Plaintiff's Exhibit C was entered</p> <p>2 into the record.)</p> <p>3 BY MR. CUMMINGS:</p> <p>4 Q Do you recognize the document that I'm showing</p> <p>5 you on your screen Ms. McKinnon?</p> <p>6 A Yes.</p> <p>7 Q Okay. And how do you recognize this document?</p> <p>8 A Because I believe I'm the one that responded</p> <p>9 to it and I saw it and that's not, you know, the client</p> <p>10 did not do that, that was a family member and this came</p> <p>11 because of Cruz and the reason why I said it's not true</p> <p>12 is because the client never call here to complain about</p> <p>13 services.</p> <p>14 Q Okay. How did you become aware of this Google</p> <p>15 post being -- well, first, where did you see this Google</p> <p>16 post?</p> <p>17 A I saw it online in Google's review.</p> <p>18 Q Okay. Do you regularly monitor the Google</p> <p>19 reviews for All VIP?</p> <p>20 A Sometimes I do, sometimes. Not always because</p> <p>21 our record speaks for itself. We have lots of client's,</p> <p>22 lots of great reviews, so, you know, I -- but sometimes</p> <p>23 I do because I want to make sure, you know, that my</p> <p>24 staff is doing their job. That's why I do it mostly, to</p> <p>25 make sure that my staff, in house staff that they're</p>

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<p style="text-align: right;">Page 62</p> <p>1 doing their jobs.</p> <p>2 Q Did anybody direct you to look at this</p> <p>3 particular Google posts or you just --</p> <p>4 A You know, I don't recall. I'm sorry. I have</p> <p>5 way -- I have hundreds of clients, hundreds of</p> <p>6 caregivers. This is a very busy business. So no, I</p> <p>7 don't recall. I don't.</p> <p>8 Q Now looking at the name of the person who, you</p> <p>9 know, the review is under, where it says Cesar ZK, was</p> <p>10 Cesar ZK an All VIP client?</p> <p>11 A I believe he -- I believe, yes and he did not</p> <p>12 write that review.</p> <p>13 Q Okay. How do you know?</p> <p>14 A Because I know. He's a senior, he's not going</p> <p>15 to do that. It wasn't him.</p> <p>16 Q Okay. But did you ever receive any</p> <p>17 information that somebody else wrote this review or you</p> <p>18 just assume --</p> <p>19 A I don't recall receiving any information. I</p> <p>20 don't. We can ask Diana Ramirez, but I just don't</p> <p>21 recall.</p> <p>22 Q Okay. And so whether he wrote the review in</p> <p>23 that or if it was a family member or somebody else,</p> <p>24 looking at the content of it, it says that HHAs home</p> <p>25 health aides were always complaining they were not being</p>	<p style="text-align: right;">Page 64</p> <p>1 or whatever and again, you know, I explained to her,</p> <p>2 Cruz we have a system in place to avoid these issues,</p> <p>3 please utilize the software, utilize the resources, you</p> <p>4 know, that you have, you know. Use HHAExchange to clock</p> <p>5 in, clock out. That goes automatically to the payroll</p> <p>6 and you won't have these issues.</p> <p>7 Q When you spoke with Ms. Cruz Valdivieso, did</p> <p>8 you speak to her in English or Spanish?</p> <p>9 A Spanish.</p> <p>10 Q Okay. So, are you --</p> <p>11 A I think it was Spanish.</p> <p>12 Q Okay. Are you a fluent Spanish speaker?</p> <p>13 A --</p> <p>14 Q Okay. Well, just for the deposition record</p> <p>15 you have to actually say yes, so.</p> <p>16 A Yes.</p> <p>17 Q Okay. Thank you. And do you also read in</p> <p>18 Spanish?</p> <p>19 A I do read Spanish.</p> <p>20 Q Do you write in Spanish?</p> <p>21 A A little.</p> <p>22 Q Does All VIP provide any Spanish language</p> <p>23 documents to its caregivers?</p> <p>24 A No, because it is not my responsibility to do</p> <p>25 so, but they can and they have in the office if a</p>
<p style="text-align: right;">Page 63</p> <p>1 paid by the agency and threatened into stop delivering</p> <p>2 services to the customer, patient.</p> <p>3 What is -- do you have any idea of what Mr. ZK</p> <p>4 or the post is referring to there?</p> <p>5 A First of all, Mr. ZK did not write that post</p> <p>6 and second of all, it's referring to the caregiver</p> <p>7 complaining to the clients order that she was not paid,</p> <p>8 which it's -- that's what she was doing.</p> <p>9 Q Okay. And in this particular case, the</p> <p>10 caregiver would have been Ms. Cruz?</p> <p>11 A That's correct.</p> <p>12 Q All right. Do you know why Ms. Cruz was</p> <p>13 complaining that she was not being paid?</p> <p>14 A No.</p> <p>15 Q However, Ms. Cruz did come to the Palm Beach</p> <p>16 office one time and complained to you that she was not</p> <p>17 being paid, correct?</p> <p>18 A That is correct, maybe once or twice.</p> <p>19 Q Okay. And what was her specific complaint</p> <p>20 when she came into the Palm Beach office about not being</p> <p>21 paid?</p> <p>22 A That she didn't get paid or she didn't get</p> <p>23 paid correctly. It was some -- again, I have over 1000</p> <p>24 caregivers, you know, on my roster.</p> <p>25 So, something about her not getting paid right</p>	<p style="text-align: right;">Page 65</p> <p>1 caregiver will request they'll do it, you know, out of</p> <p>2 the kindness, you know, of our heart, you know.</p> <p>3 Sure. We're compassionate, we'll do it, but</p> <p>4 normally, no and we're not -- we're not mandated to do</p> <p>5 so.</p> <p>6 Q The independent contractor agreement that home</p> <p>7 health aide sign, is that an English or Spanish?</p> <p>8 A Absolutely. And its in English this is the</p> <p>9 US, it is in English.</p> <p>10 Q Do you know if Cruz Valdivieso ever informed</p> <p>11 any All VIP employee that she did not understand the</p> <p>12 independent contractor agreement?</p> <p>13 A No, she did not and when they have issue, if</p> <p>14 they have an issue, we have bilingual staff here. Okay,</p> <p>15 bilingual.</p> <p>16 They will go into the conference room with</p> <p>17 them and they will walk through the application with the</p> <p>18 caregiver, but it is in English because that's the</p> <p>19 requirement, English.</p> <p>20 Q The bilingual staff that you mentioned that</p> <p>21 we'll go through documents, All VIP documents with</p> <p>22 caregivers, are they only in Palm Beach or are they in</p> <p>23 all of the offices?</p> <p>24 A They are in Palm Beach, they are in Deerfield</p> <p>25 Beach, they are in Pahokee.</p>

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<p style="text-align: right;">Page 66</p> <p>1 Q When home health aides sign up to work for All 2 VIP, do they fill out the application online or do they 3 fill out the application in the office? 4 A They could fill it out online and sometimes we 5 do that to make things easier for them because, you 6 know, if they don't work they don't get paid. 7 So, you know, just to make things easier for 8 them, but mostly they come to the office because we need 9 to meet you. We need to know who are we referring to a 10 client's home. These seniors are depending on us. So, 11 and we need to make that connection with the caregivers. 12 We need to make sure that they represent. So, 13 we need to you know -- 14 Q Okay. 15 A So, they normally come to the office and 16 apply. 17 Q Got it. And are caregivers told to come to 18 the Palm Beach office for employment, like onboarding or 19 they can go to any office? 20 A They can go to any office they like. 21 Q Okay. Do you know how Ms. Cruz Valdivieso 22 turned in her application for employment with All VIP? 23 A No, I don't. I'm sorry. 24 (Thereupon, a short discussion was held off 25 record.)</p>	<p style="text-align: right;">Page 68</p> <p>1 I'm showing -- 2 A That's the application when I first come here 3 to apply. 4 Q Okay. Is this applications specifically for 5 home health aides? 6 A Home health aides, CNAs, LPNs, RNs. 7 Q And they're all required to fill out these 8 forms that I'm showing you in Exhibit D here? 9 A According to my attorney, they are. When we 10 first help with the business, that's what he said. 11 Q Okay. And as we -- as you mentioned earlier, 12 this document is only provided in English, correct? 13 A That is correct. 14 Q Or these documents I should say. All right. 15 A Only in English. 16 Q Okay. Now on the bottom of Page 15 of 25, 17 which has Bates Stamp Number, All VIP 26A150000150 -- 18 A Yes. 19 Q -- Under signature or above signature of 20 authorized company representative, who is your Yanaris 21 or Yanaris Perez? 22 A She used to work here in the Broward office 23 with Diana. 24 Q Okay. And what was her title? 25 A She would help -- she would be Diana Ramirez</p>
<p style="text-align: right;">Page 67</p> <p>1 (Deposition resumed.) 2 BY MR. CUMMINGS: 3 Q All right. So Ms. McKinnon, when we left off 4 we were talking about Google post that I was showing you 5 an Exhibit C and -- 6 A Yes. 7 Q -- we were also talking about caregivers and 8 certain documents that they have to sign. So, let me 9 just show you some of the documents that I have. 10 A Yes. 11 Q I'm going to make this Exhibit D for the 12 deposition record, so. 13 (Thereupon, Plaintiff's Exhibit D was entered 14 into the record.) 15 BY MR. CUMMINGS: 16 Q Okay. Now what I'm showing you is a 25 page 17 PDF document -- 18 A Okay. 19 Q -- All VIP provided to us -- 20 A Okay. 21 Q And based on what I'm scrolling through here, 22 starting at Page 1, do you recognize what types of 23 documents these are? 24 A Yes. 25 Q Okay. What types of documents are this that</p>	<p style="text-align: right;">Page 69</p> <p>1 assistant, help her run that office. 2 Q Why is Ms. Perez's name on the -- on 3 Ms. Cruz's sign on documents? 4 A Because she processed her when she first came 5 in. That's the only reason she would have to process 6 her. 7 When Ms. Cruz came -- arrived to the office 8 I'm assuming in Deerfield Beach because that's where she 9 worked, she processed her, she interview her, she gave 10 me the application and by the way, Ms. Perez is 11 bilingual in English and Spanish and she parts of the 12 application, so she signs it. 13 Q Okay. Got it. And when -- so when you say 14 process, process basically means that Ms. Perez carried 15 out the interview process for Cruz Valdivieso? 16 A That's correct. Yes. 17 Q Okay. And going down to Appendix A, which 18 is page 16 of the document that I'm showing you in 19 Exhibit D -- 20 A Yes. 21 Q -- what exactly is this independent contractor 22 payment schedule telling the potential or the new 23 employee? 24 A That there -- this, you know, because we 25 negotiate sa -- rates. So, that's what they're supposed</p>

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<p style="text-align: right;">Page 70</p> <p>1 to when the salaries negotiated, they put there, it's</p> <p>2 written and they really -- she should have -- Ms. Perez</p> <p>3 should have put that a price, you know, whatever they</p> <p>4 negotiate it, it should have been put there.</p> <p>5 With Medicare we really can't negotiate much</p> <p>6 because Medicare doesn't negotiate.</p> <p>7 Q Okay.</p> <p>8 A So, you know.</p> <p>9 Q And so -- sorry. So, in this particular</p> <p>10 situation with Cruz Valdivieso, if she was negotiating</p> <p>11 the price, where would that number be, would it be next</p> <p>12 to HHA/CNA at the bottom?</p> <p>13 A That is correct. That's exactly where it</p> <p>14 should have been put right there.</p> <p>15 Q Okay. And if this document is blank, then</p> <p>16 does that mean that Ms. Valdivieso was not working under</p> <p>17 a specific rate of pay that she was supposed to be</p> <p>18 receiving?</p> <p>19 A You know, it's hard for me to tell because I</p> <p>20 wasn't there and I don't know what Ms. Perez was</p> <p>21 thinking, but as a manager and someone who runs the</p> <p>22 office, this tells me that that Ms. Perez didn't follow</p> <p>23 through, maybe she was being human that day she forgot</p> <p>24 or maybe her and Cruz didn't come to agreement. I don't</p> <p>25 know, but was supposed to put a rate, was support to put</p>	<p style="text-align: right;">Page 72</p> <p>1 Q Okay.</p> <p>2 A That's normally the process.</p> <p>3 Q Does All VIP know if you Yanaris Perez explain</p> <p>4 the independent contractor agreement to Cruz Valdivieso</p> <p>5 in Spanish?</p> <p>6 A I'm going to say, yes, because Ms. Cruz always</p> <p>7 spoke to us in Spanish.</p> <p>8 Q This document that I'm looking at on Page 24</p> <p>9 of 25, which has Bates Stamps Number 24, where -- this</p> <p>10 says, "Waiver of professional liability insurance." Does</p> <p>11 this tell you that Ms. Cruz Valdivieso was waiving the</p> <p>12 professional liability insurance or that she was not?</p> <p>13 A What this tells me is that me as a company, I</p> <p>14 will be safe. This tells me whether Ms. Cruz has</p> <p>15 insurance or not. This saves All VIP Care. That's what</p> <p>16 this document tells me because many times, you know,</p> <p>17 they buy the professional liability and they forget to</p> <p>18 renew their professional liability.</p> <p>19 So, this document just tells me that as a</p> <p>20 company, as a business I am safe.</p> <p>21 Q Okay. Meaning that if the home health aide,</p> <p>22 in this case Ms. Cruz does not have professional</p> <p>23 liability insurance, that she's agreeing not to sue All</p> <p>24 VIP if she gets sued?</p> <p>25 A If Ms. Cruz neglect to renew her policy, this</p>
<p style="text-align: right;">Page 71</p> <p>1 something there whether it's a question mark. Many times</p> <p>2 when I would do this, I will put \$10 to \$15, you know, I</p> <p>3 always put something.</p> <p>4 So, that I can only tell you what I can, you</p> <p>5 know, what they supposed to really be doing and why did</p> <p>6 she leave it blank? I don't know. I wasn't there. I</p> <p>7 wasn't privy to that. I didn't privy between her and</p> <p>8 Ms. Cruz, but was supposed to put something there. We're</p> <p>9 not supposed to leave it blank.</p> <p>10 Q Okay. Would Ms. Valdivieso start date be</p> <p>11 considered the date that she signed these documents?</p> <p>12 A No. But, you know, that's the day that pretty</p> <p>13 that, you know, that she should, that she can definitely</p> <p>14 start, but sometimes they start before, it all depends</p> <p>15 on the client. Sometimes the client brings them on, you</p> <p>16 know, and sometimes they come from other agencies.</p> <p>17 So, we don't want to interrupt services, so we</p> <p>18 let them, you know, work before signing the contract,</p> <p>19 but normally, they're supposed to come and fill out the</p> <p>20 application and we talk to them.</p> <p>21 We go over the duty, the client. You know,</p> <p>22 "Can you accept this assignment?" Yes or no? You know,</p> <p>23 we go over everything and then we put them and then we</p> <p>24 send them over to meet the client and then they begin</p> <p>25 work.</p>	<p style="text-align: right;">Page 73</p> <p>1 tells everyone that she should not be suing me.</p> <p>2 Q Okay. And are home health aides or let me put</p> <p>3 it like this. When people sign on to work with All VIP,</p> <p>4 are they required to fill out this waiver of</p> <p>5 professional liability insurance document?</p> <p>6 A They don't have to. They don't have to sign</p> <p>7 anything, but if they, you know.</p> <p>8 Q Go ahead.</p> <p>9 A If for example, she says I do not want to sign</p> <p>10 a waiver of professional liability insurance, then we</p> <p>11 tell her, well, then you must have, otherwise we cannot</p> <p>12 put you on our roster and --</p> <p>13 Q Got it.</p> <p>14 A -- send and give you job sites.</p> <p>15 Q Okay. Understood. And then the last page in</p> <p>16 this Exhibit D is the independent contractor</p> <p>17 professional liability policy.</p> <p>18 Does this document indicate to you that</p> <p>19 Ms. Cruz did have professional liability insurance?</p> <p>20 A No, this document tells me that she's been</p> <p>21 notified.</p> <p>22 Q Just as she's been notified that she should</p> <p>23 have.</p> <p>24 A That is correct. That she should have it and</p> <p>25 that she needs to have it. It's the best thing to do.</p>

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<p style="text-align: right;">Page 74</p> <p>1 It's good business practice.</p> <p>2 Q Is there any document that tells All VIP that</p> <p>3 Ms. Cruz in fact did have professional liability</p> <p>4 insurance while she was working with All VIP?</p> <p>5 A I don't know because again, you know, she's in</p> <p>6 a different office. So, that would be a good question</p> <p>7 for Diana Ramirez and it'd be a very good question for</p> <p>8 her.</p> <p>9 Q Got it. Is there any document within these 25</p> <p>10 pages of Exhibit D that explains how much Ms. Valdivieso</p> <p>11 Cruz was actually being paid when she was a home health</p> <p>12 aide?</p> <p>13 A I will tell you that this document I did not</p> <p>14 see that. However, I will tell you that I spoke to her</p> <p>15 about that because if she negotiated her rate, yes, she</p> <p>16 did.</p> <p>17 She was asking for much more than what we</p> <p>18 normally pay someone at that time working for Medicaid.</p> <p>19 So, she got more than what she was supposed to get and</p> <p>20 that I opposed.</p> <p>21 Q Who did she -- who did Ms. Valdivieso Cruz</p> <p>22 negotiate her rate with?</p> <p>23 A With me and she told the office in Deerfield</p> <p>24 Beach and it was brought to my attention.</p> <p>25 Q Let me just bring that down for a second. So,</p>	<p style="text-align: right;">Page 76</p> <p>1 West Palm Beach a little bit more, it all depends.</p> <p>2 Q Why did All VIP negotiate \$13 an hour with</p> <p>3 Ms. Cruz in particular?</p> <p>4 A Because as independent contractor, she has</p> <p>5 that right and she requested it. She said she wasn't</p> <p>6 going to work for less. So, we negotiated a rate with</p> <p>7 her.</p> <p>8 Q Was there any consideration made into her</p> <p>9 previous experience?</p> <p>10 A No because Medicaid doesn't take that into</p> <p>11 account.</p> <p>12 Q Okay. Did you know who Ms. Cruz Valdivieso</p> <p>13 was before she started working with All VIP?</p> <p>14 A No.</p> <p>15 Q Do you know if All VIP received a</p> <p>16 recommendation to hire Ms. Cruz Valdivieso, does she</p> <p>17 come under any special, with any special</p> <p>18 recommendations?</p> <p>19 A I don't, but then Diana Ramirez she knows more</p> <p>20 about this case then I do.</p> <p>21 Q Don't know. Okay. Are All VIP employees</p> <p>22 required to wear a uniform when they provide care in the</p> <p>23 house?</p> <p>24 A As an independent contractor, they are not</p> <p>25 require to wear uniforms. However, if the client</p>
<p style="text-align: right;">Page 75</p> <p>1 did she negotiated her rate with you before she was</p> <p>2 actually brought on to be a home health aide with All</p> <p>3 VIP?</p> <p>4 A I don't recall, I just remember. The rate was</p> <p>5 negotiated.</p> <p>6 Q How much did she negotiate her rate for?</p> <p>7 A 13 an hour at that time. At that time, she</p> <p>8 negotiate 13 an hour. You have to understand that at</p> <p>9 that time -- and I'm just giving you extra information</p> <p>10 here --</p> <p>11 Q Right.</p> <p>12 A -- The reimbursement for Medicaid and you</p> <p>13 cannot negotiate Medicaid, negotiate with Medicare,</p> <p>14 okay, was only \$16 an hour and we negotiated with her 13</p> <p>15 an hour.</p> <p>16 Q Okay. Which mean -- which then meant that for</p> <p>17 every hour service that Ms. Cruz worked, that All VIP</p> <p>18 was only receiving \$3 an hour?</p> <p>19 A That is correct.</p> <p>20 Q What is the normal rate at home health aides</p> <p>21 working with Medicaid charge or negotiate?</p> <p>22 A Back then and again, it depends, like Miami</p> <p>23 for instance, they might get minimum wage or they might</p> <p>24 get \$9.</p> <p>25 Normally in my area, Broward maybe 10 an hour,</p>	<p style="text-align: right;">Page 77</p> <p>1 requires them to wear uniform, the answer is yes.</p> <p>2 Q So, sometimes clients require the home health</p> <p>3 aides to wear a uniform in their house?</p> <p>4 A Absolutely. And sometimes the clients do not</p> <p>5 want them wearing uniform.</p> <p>6 Q And for that reason does All VIP have some</p> <p>7 type of uniform that home health aides can use?</p> <p>8 A If the client wants to wear uniform, we tell</p> <p>9 the caregivers to, you know, just buy the regular scrubs</p> <p>10 that the Walmart sells, you know.</p> <p>11 Q Okay. Is there any clothing that All VIP has</p> <p>12 that has its logo or name on it?</p> <p>13 A We do, but for in-house. We don't have that</p> <p>14 for our caregivers. The independent contractors, no.</p> <p>15 Q Who sets the schedule for the caregivers?</p> <p>16 A That -- the schedule is set between two people</p> <p>17 in this case and I'm going to be specific with this</p> <p>18 case --</p> <p>19 Q Okay.</p> <p>20 A -- With this case, it's Humana, Humana Long</p> <p>21 Term Care. The case manager will meet with the client</p> <p>22 and family members.</p> <p>23 They do what we call an assessment, a care</p> <p>24 plan. They are the ones that schedule the schedule. So,</p> <p>25 I'm going to say the case manager and the family or the</p>

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<p style="text-align: right;">Page 78</p> <p>1 client, they are the ones that came up with the</p> <p>2 schedule, not All VIP Care. Case management and Humana</p> <p>3 and the family, the client.</p> <p>4 Q Got it. Okay. And how was their schedule</p> <p>5 then given to All VIP?</p> <p>6 A Humana would then send it an authorization and</p> <p>7 they'll call us up and then we'll do an intake and</p> <p>8 they'll tell us exactly what they want and now because</p> <p>9 of HHAEExchange, will be in the computer.</p> <p>10 Q Okay. So, generally speaking or let's just</p> <p>11 talk, like you said, let's talk about Cruz Valdivieso.</p> <p>12 When you say Humana, which client had Humana, was it ZK</p> <p>13 case?</p> <p>14 A Let's see real quick here. He had Humana,</p> <p>15 yes. Well, he has Humana, yes.</p> <p>16 Q Mr. ZK had Humana. Okay. And you previously</p> <p>17 mentioned that there was a couple, was it the ZK that</p> <p>18 were a couple or was this a different --</p> <p>19 A I believe so --</p> <p>20 Q Okay.</p> <p>21 A -- they're the only ones that come to mind. At</p> <p>22 this moment, they were a couple.</p> <p>23 Q And so would Humana have met with -- Humana</p> <p>24 case manager had met with the ZKs prior to any All VIP</p> <p>25 involvement with the ZKs?</p>	<p style="text-align: right;">Page 80</p> <p>1 Q Does Humana get involved at all with the</p> <p>2 payment or the hourly rate that the home health aide is</p> <p>3 being paid?</p> <p>4 A No, because Medicaid does not negotiate rate.</p> <p>5 They're going to pay you what they're going to pay you</p> <p>6 and you take it or not.</p> <p>7 Q Got it. So, even though this is a Humana</p> <p>8 plan, it's still being paid out by Medicaid?</p> <p>9 A That is correct.</p> <p>10 Q Okay. In the case of Ms. Cruz Valdivieso, did</p> <p>11 All VIP ever have to make contact with Humana?</p> <p>12 (Thereupon, a short discussion was held off</p> <p>13 record.)</p> <p>14 (Deposition resumed.)</p> <p>15 BY MR. CUMMINGS:</p> <p>16 Q So, yeah. So, Ms. McKinnon, I believe the</p> <p>17 question I was in the middle of asking you was, once</p> <p>18 Humana and the client come up with the schedule, how is</p> <p>19 that scheduled then relayed over to the home health</p> <p>20 aide?</p> <p>21 A We call the aide and we tell them exactly what</p> <p>22 the client needs. We have a form, you know, client, you</p> <p>23 know, the schedule is Monday through Friday from 09:00</p> <p>24 to 05:00, you know, client need bathing, dressing, meal</p> <p>25 preparation, medication reminders, you know, are you</p>
<p style="text-align: right;">Page 79</p> <p>1 A Yes. They are supposed to, yes. That's the</p> <p>2 norm.</p> <p>3 Q And then the Humana case manager sends over a</p> <p>4 schedule and an authorization and at that point All VIP</p> <p>5 has to find the caregiver. Is that correct?</p> <p>6 A That is correct. Sometimes the clients bring</p> <p>7 their caregivers and I don't know if that happened in</p> <p>8 this case, I don't recall, but there'll be a good</p> <p>9 question for Diana Ramirez. She would know.</p> <p>10 Q Got it. Okay. And then does Humana have to</p> <p>11 approve the caregiver after the authorization is given?</p> <p>12 A No.</p> <p>13 Q No.</p> <p>14 A No.</p> <p>15 Q Okay. That's really just up to All VIP to</p> <p>16 decide who the caregiver would be based on the hours</p> <p>17 that are available and the service that needs to be</p> <p>18 provided?</p> <p>19 A Well, the caregiver has to meet federal and</p> <p>20 state regulations. So, you know --</p> <p>21 Q Right.</p> <p>22 A -- Humana trusted us, I mean, I have a</p> <p>23 contract with Humana where I'm going to follow State and</p> <p>24 Federal regulations. So, they trusted me that I'm going</p> <p>25 to do my job.</p>	<p style="text-align: right;">Page 81</p> <p>1 willing to do this?</p> <p>2 Sometimes, you know, client needs -- client</p> <p>3 and aide is willing to walk the dog, "Are you willing to</p> <p>4 do this?" Whatever it is and so, the aide will say yes</p> <p>5 or no and then at that point that we send -- we call up</p> <p>6 the client and we tell the client, "We find aide whose</p> <p>7 accepting your case, would you like to interview or</p> <p>8 should we just send her to start the case?"</p> <p>9 Q Okay. All right. So, now let me show you</p> <p>10 what I'm going to mark as Exhibit E for the deposition</p> <p>11 record.</p> <p>12 (Thereupon, Plaintiff's Exhibit E was entered</p> <p>13 into the record.)</p> <p>14 A Okay.</p> <p>15 BY MR. CUMMINGS:</p> <p>16 Q Okay. Can you see the document that I'm</p> <p>17 showing you on the screen right now?</p> <p>18 A Oh, yes.</p> <p>19 Q All right. This is an eight page document.</p> <p>20 A Okay.</p> <p>21 Q It also has Bate stamps numbers, it just says</p> <p>22 VIP docs 155 I believe, all the way down to 162. I'll</p> <p>23 just go back to the first page and first, do you</p> <p>24 recognize this document?</p> <p>25 A Of course.</p>

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<p style="text-align: right;">Page 82</p> <p>1 Q Okay. How do you recognize it?</p> <p>2 A Because it's HHAEExchange, it's what we use</p> <p>3 every day.</p> <p>4 Q And you already explained what HHAEExchange is-</p> <p>5 -</p> <p>6 A The home care software.</p> <p>7 Q Right. Exactly. You already explained that.</p> <p>8 In this particular case we can see that the patient name</p> <p>9 here is a ZK C -- Cesar ZK.</p> <p>10 We see a coordinator is Diana Ramirez and then</p> <p>11 when we look down on the schedule on this first pages</p> <p>12 patient calendar, we can see that Friday, Saturday and</p> <p>13 Sunday are blocked off and they have Ms. Valdivieso</p> <p>14 Cruz's name. So, how would Ms. Valdivieso Cruz access</p> <p>15 this calendar?</p> <p>16 A Through her smartphone. I also think it's</p> <p>17 important to mention that what you see on the screen,</p> <p>18 that information you see there is predominantly put in</p> <p>19 there by Humana, the insurance company.</p> <p>20 Q And so the insurance company is regularly</p> <p>21 updating the schedule that the patient is going to be</p> <p>22 receiving care on?</p> <p>23 A They don't update the schedule. What they</p> <p>24 update in there is the authorization --</p> <p>25 Q Okay.</p>	<p style="text-align: right;">Page 84</p> <p>1 Friday or Saturday or Sunday a personal care, this</p> <p>2 client also gets companion care and this client also get</p> <p>3 homemaking services.</p> <p>4 Q Okay. So, --</p> <p>5 A So, Humana will know you are there.</p> <p>6 Q -- let's slow down for a second. So, it says</p> <p>7 on this first page, last three authorizations in blue,</p> <p>8 then we see a grid and the first column says contracts</p> <p>9 and if we go over maybe about four columns, it says</p> <p>10 discipline. So, are you referring to this column here?</p> <p>11 A That's correct. That --</p> <p>12 Q Okay.</p> <p>13 A -- and the next one, and the one next to it.</p> <p>14 Q Okay. So let me just stop for a second. What</p> <p>15 is PCA stands for?</p> <p>16 A Personal care.</p> <p>17 Q Personal care. Okay. And then COMP?</p> <p>18 A Companion.</p> <p>19 Q Got it. And HMK is homemaker?</p> <p>20 A We're homemaking. Yes.</p> <p>21 Q Homemaking.</p> <p>22 A That's the same thing, homemaker, homemaking.</p> <p>23 Q For -- I noticed that Ms. Valdivieso Cruz's</p> <p>24 name is not the only one that appears on the schedule.</p> <p>25 There's also somebody named Landa Pena Yanni, do we</p>
<p style="text-align: right;">Page 83</p> <p>1 A -- and the duties, the hours that we're going</p> <p>2 to perform each duties per week.</p> <p>3 Q And so the times that are on the schedule,</p> <p>4 those -- in the green boxes those are being inputted by</p> <p>5 a Humana employee as far as you know?</p> <p>6 A Yes. Oh, I know.</p> <p>7 Q Okay. If those hours are definitely not being</p> <p>8 inputted by All VIP employee?</p> <p>9 A The only thing we put in is down there what</p> <p>10 you see in green, that H name, you know, the hours that</p> <p>11 she's working, that is inputted by All VIP Care, that</p> <p>12 green that you see there.</p> <p>13 Q Okay. But the parts that are in green are the</p> <p>14 schedule as far as I'm concerned because it looks like</p> <p>15 it's been --</p> <p>16 A It is, but --</p> <p>17 Q Say it again?</p> <p>18 A It is, but what you don't see because you can</p> <p>19 open it up to see is that the authorization tells you</p> <p>20 how many hours a week she's supposed to be working and</p> <p>21 the duties.</p> <p>22 Like T1019, she's supposed to be doing</p> <p>23 personal care. And Humana will tell you there, of</p> <p>24 course, you can't see it, but in there you click on it</p> <p>25 and it will tell you how many hours you do on Monday or</p>	<p style="text-align: right;">Page 85</p> <p>1 know, is that All VIP employee?</p> <p>2 A At that time she was. I'm not sure she's</p> <p>3 still with us. By the time she was.</p> <p>4 Q So, All VIP has different caregivers providing</p> <p>5 services to the same patients sometimes?</p> <p>6 A That is correct.</p> <p>7 Q Depending on what their specific skill set is?</p> <p>8 A No, depending on the --</p> <p>9 Q No.</p> <p>10 A -- caregivers -- no, because once a caregiver</p> <p>11 comes on board, they got the skills. This is depending</p> <p>12 on who is willing to work the hours or take on that</p> <p>13 shift.</p> <p>14 Q Excellent. Okay. Understood. Got it. Okay.</p> <p>15 And so, Ms. Valdivieso Cruz theoretically should be able</p> <p>16 to provide the personal care, the companion care and the</p> <p>17 homemaker care?</p> <p>18 A Absolutely.</p> <p>19 Q The same with Ms. Pena, Landa Pena. It's just</p> <p>20 who works the hours that authorized.</p> <p>21 A Yes.</p> <p>22 Q Is that correct? Okay. And the only thing</p> <p>23 that All VIP is doing is assigning the slots that the</p> <p>24 caregiver is going to work based on the hours that</p> <p>25 Humana already authorized?</p>

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<p style="text-align: right;">Page 86</p> <p>1 A Humana and the clients. Remember --</p> <p>2 Q And the client.</p> <p>3 A -- this is not just Humana. Humana is going</p> <p>4 to operate based on their assessment with the client and</p> <p>5 their family members.</p> <p>6 Q Okay. Understood. Now I'm looking at this</p> <p>7 first sheet and we go over a few more columns to where</p> <p>8 it says max.</p> <p>9 Then we see numbers. We see 285 for personal</p> <p>10 care, 150 for Companion Care and what 710 for Homemaker,</p> <p>11 what is that max column referring to?</p> <p>12 A That means the most they can do. For his</p> <p>13 case, he -- for personal care that the first one, he was</p> <p>14 authorized from May 19th, 2022 to July 26th, 2022.</p> <p>15 We were authorized to provide him five hours</p> <p>16 of personal care every Monday through Friday and two</p> <p>17 hours every Saturday and Sunday. Member prefers</p> <p>18 language Spanish.</p> <p>19 Those are the instructions in the computer</p> <p>20 that you cannot see that Humana specifically sent over.</p> <p>21 Q Okay. Understood. And the 285, what does</p> <p>22 that referred to?</p> <p>23 A That's the unit's hours, you know, the most</p> <p>24 that we can schedule because, you know --</p> <p>25 Q Yeah.</p>	<p style="text-align: right;">Page 88</p> <p>1 that I'm looking at here, it says S and then there's a</p> <p>2 colon and then 300 to 500, What does that stand for?</p> <p>3 A That's military time.</p> <p>4 Q Right. I got it. So, I understand that, but</p> <p>5 what does the S stand for?</p> <p>6 A The S is schedule.</p> <p>7 Q Schedule. Okay. And then what is V stands</p> <p>8 for under that?</p> <p>9 A The visit.</p> <p>10 Q What does that mean? What's the difference</p> <p>11 between those two?</p> <p>12 A It's, I guess it's just a way the program was</p> <p>13 written, you know, the software. It's the visit.</p> <p>14 It's -- in other words, it was confirmed.</p> <p>15 That V tells me that we received -- when you</p> <p>16 see it in green and the way you see it there, that tells</p> <p>17 me that we -- that the visit was confirmed, that we --</p> <p>18 either -- the caregiver either clocked in or clocked out</p> <p>19 or that we received the timesheet and we confirm that</p> <p>20 manually in the office and that's what that means.</p> <p>21 Q Okay. And so what I'm looking at here this</p> <p>22 patient calendar, is this a calendar that's created</p> <p>23 before the services provided to the client or is it only</p> <p>24 afterwards to confirm that these hours are actually</p> <p>25 worked by the caregiver?</p>
<p style="text-align: right;">Page 87</p> <p>1 A Yeah.</p> <p>2 Q Okay. So from May 19th, 2022 to July 26th,</p> <p>3 2022, Mr. ZK was authorized for a total of 285 hours of</p> <p>4 personal care?</p> <p>5 A During that timeframe, yes.</p> <p>6 Q Got it. And then All VIP is just determining</p> <p>7 which caregivers came to fulfill that -- those hours</p> <p>8 based on the schedule they can work?</p> <p>9 A To say that we determine, it's not 100%</p> <p>10 accurate because we refer the caregiver over to the</p> <p>11 client and it's up to the client to decide if they want</p> <p>12 to keep that caregiver or not and then, you know, and in</p> <p>13 this case Diana Ramirez would know more because maybe</p> <p>14 this aide was referred to us by the client, I'm not 100%</p> <p>15 sure.</p> <p>16 So, that will be an excellent question for</p> <p>17 Diana. However, my point here is that this is</p> <p>18 determined, it's mutual parties involved here.</p> <p>19 When we refer a client a caregiver over and</p> <p>20 they stay with the case, it's because the client agree</p> <p>21 to it, it's not because we say so in other words.</p> <p>22 Q Okay. Right, I understand that part, but you</p> <p>23 did mention that the green portions of this document</p> <p>24 where the schedule is, so for example, where -- on the</p> <p>25 Friday which is I think July 1st based on the calendar</p>	<p style="text-align: right;">Page 89</p> <p>1 A They could possibly created immediately. The</p> <p>2 moment that we start services, they have to because</p> <p>3 remember, we have to follow Medicaid guidelines.</p> <p>4 It is this new EVVs compliance that we have to</p> <p>5 comply with, this new rule.</p> <p>6 So, when you provide services to Medicaid</p> <p>7 clients, the caregiver has to clock in and clock out.</p> <p>8 So, how can she clock in and clock out if we don't have</p> <p>9 a schedule for?</p> <p>10 So it has to be done immediately. That's, you</p> <p>11 know, that's the plan. It has to be done immediately.</p> <p>12 So when the caregiver arrives to the client's home, she</p> <p>13 has the ability to clock in and clock out and she</p> <p>14 conduct, you know, she clicks, you know, bathing,</p> <p>15 dressing, whatever she did all the tasks that she</p> <p>16 performed while she was with the client within that</p> <p>17 timeframe, she registered that.</p> <p>18 Q And so, basically what I'm learning after --</p> <p>19 let me ask you a question. By looking at Page 2 of the</p> <p>20 same patient calendar for Mr. ZK, does this page</p> <p>21 indicate that Mr. ZK had multiple caregivers assigned by</p> <p>22 All VIP?</p> <p>23 A Yes, he had multiple caregivers.</p> <p>24 Q And the patient had to approve all of these</p> <p>25 caregivers?</p>

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<p style="text-align: right;">Page 90</p> <p>1 A That's correct. And if they don't and if</p> <p>2 they're not happy, they let us know immediately and we</p> <p>3 work on it to change the situation and if we cannot meet</p> <p>4 their expectations, then we call the case manager and</p> <p>5 the case manager will refer this client to another</p> <p>6 agency.</p> <p>7 Q Okay. And when you say case manager, in this</p> <p>8 case you mean the case manager for Humana?</p> <p>9 A That's correct.</p> <p>10 Q Right. Okay. And do home health aides use</p> <p>11 this HHA patient schedule to confirm that they're being</p> <p>12 paid the correct amount of money?</p> <p>13 A No, but it ties to their money because it's--</p> <p>14 because they're saying they weren't. So, that ties to</p> <p>15 the payroll.</p> <p>16 Q Is there a way that a home health aide can log</p> <p>17 hours through this home health exchange patient calendar</p> <p>18 that they did not actually work?</p> <p>19 A They have to be in a home. So, is PPS. So, I</p> <p>20 mean, they could I guess if they're in the parking lot,</p> <p>21 I mean, they can, you know, and they get the signal</p> <p>22 perhaps. If they're a block away, yeah, they can</p> <p>23 perhaps, but it's really GPS and we can open it up and</p> <p>24 we can see, we can see where they clocked in and clocked</p> <p>25 out.</p>	<p style="text-align: right;">Page 92</p> <p>1 A Yes. I remember that's pretty much put in</p> <p>2 through Humana. So, that phone number --</p> <p>3 Q Right.</p> <p>4 A -- you see there, Humana puts it in.</p> <p>5 Q So, in that case, the home health care aide</p> <p>6 would have to ask the patient, "Can I please use your</p> <p>7 phone so that I can clock in and clock out at these</p> <p>8 times?"</p> <p>9 A That is correct, but also the client should</p> <p>10 know. The clients also -- clients should be aware of</p> <p>11 this.</p> <p>12 Q Does -- let me take this down. Does All VIP</p> <p>13 provide any cellular phones for its home health aides?</p> <p>14 A No, we do not.</p> <p>15 Q Does All VIP provide any laptops or computer</p> <p>16 equipment to home health aides?</p> <p>17 A No, we do not.</p> <p>18 Q Does All VIP require its home health aides to</p> <p>19 use any particular -- I thought I took this now. Sorry</p> <p>20 about that. I thought that was down. Let me repeat</p> <p>21 that question.</p> <p>22 Does home -- does All VIP provide any</p> <p>23 equipment to home health aides that they are required to</p> <p>24 use when administering patient care?</p> <p>25 A No, we do not require, unless of course, the</p>
<p style="text-align: right;">Page 91</p> <p>1 So, let's say they clocked in or clocked out a</p> <p>2 mile away then we know they're not with the client in</p> <p>3 their homes doing, you know, performing the duties.</p> <p>4 Q And the GPS is tracking the phone?</p> <p>5 A It's tracking their location, where you are.</p> <p>6 Q Right, but through their phone, correct?</p> <p>7 A That's correct I guess. Yeah.</p> <p>8 Q Okay. Or do you know if HHAeXchange is just</p> <p>9 tracking where the person is logged in, what if they are</p> <p>10 on a computer in the client's home and login in that</p> <p>11 way?</p> <p>12 A No, they cannot log in from the computer,</p> <p>13 that's not my understanding. No. They have to do it</p> <p>14 from either the landline phone number and remember that</p> <p>15 phone number has to be in here, in their client file in</p> <p>16 HHAeXchange. So, they just can't call from any number,</p> <p>17 you know, so --</p> <p>18 Q Okay.</p> <p>19 A -- and they have that cell phone, that cell</p> <p>20 phone is tied to them. So, whenever they clock in and</p> <p>21 clock out from the smartphone, trust me, that GPS is</p> <p>22 going to tell us where they are.</p> <p>23 Q Got it. And looking back at Page 1 of Exhibit</p> <p>24 D here, the home phone under Mr. ZK's name would be the</p> <p>25 landline that's registered to the HHAeXchange?</p>	<p style="text-align: right;">Page 93</p> <p>1 insurance company requires that, but no, we do not.</p> <p>2 Q What types of equipment do home health aides</p> <p>3 need to take with them to a patient's home to provide</p> <p>4 the care that they provide?</p> <p>5 A If let's say for example we need to monitor</p> <p>6 maybe the blood pressure of the client, the caregiver</p> <p>7 will be told.</p> <p>8 Many times the patient will have that</p> <p>9 equipment in their home and they just help the client,</p> <p>10 you know, put it on the wrist, you know, but that's</p> <p>11 pretty much it, I mean, a caregiver -- again, remember</p> <p>12 these are non- medical service. So, they really don't</p> <p>13 need equipment.</p> <p>14 Q Generally -- well, let's stick with -- no,</p> <p>15 let's -- just generally speaking for home health aides,</p> <p>16 how often do they have to come into any one of All VIPs</p> <p>17 offices for any reason?</p> <p>18 A They don't have to come at all, just in the</p> <p>19 beginning so we can make them.</p> <p>20 Q Once a home health aide is assigned to a</p> <p>21 client by All VIP, it's just the home health aide's</p> <p>22 responsibility to make their appointments, clock in and</p> <p>23 clock out and I guess they get paid through what, mostly</p> <p>24 direct deposit?</p> <p>25 A Mostly, yes. We don't speak to them unless we</p>

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<p style="text-align: right;">Page 94</p> <p>1 have to. We keep communications open with the client, 2 not the caregiver.</p> <p>3 Q In each All VIP office, whose job is it to 4 keep communication with the clients?</p> <p>5 A The administrators or even the care 6 coordinators. It's always good -- it's always good to 7 monitor your services, you know, its good business 8 practice, you know. Common sense.</p> <p>9 Q How often does All VIP recommend that client 10 contact take place?</p> <p>11 A When it's necessary.</p> <p>12 Q The -- do the All VIP home health aides have a 13 contractual relationship with the client?</p> <p>14 A Contractual, I don't think so, unless you have 15 a specific question. I don't. Contractual, I don't 16 think so.</p> <p>17 Q Does All VIP patients have a contractual 18 relationship with All VIP. Is that right?</p> <p>19 A They do. They do because we have them sign a 20 contract. In fact, any agency they go to, they have to 21 sign a contract, it's not just All VIP. It's practice 22 in the business.</p> <p>23 Q Okay. And so the way it works is that, All 24 VIP has a contractual relationship with its caregivers, 25 like Cruz Valdivieso, correct?</p>	<p style="text-align: right;">Page 96</p> <p>1 Q Is there a database that All VIP has that 2 shows the number of clients that Ms. Cruz Valdivieso was 3 assigned to?</p> <p>4 A There's a home care software, yes.</p> <p>5 Q Would that software also tell somebody how 6 many hours Ms. Cruz was designated to work for each of 7 the clients?</p> <p>8 A It tells you how many hours she worked.</p> <p>9 Q How many hours she work. Okay. Like actually 10 worked by clocking in and clocking out?</p> <p>11 A Or based on her timesheet and in this case 12 it's going to be based on her timesheet because she did 13 not clock in and clock out.</p> <p>14 Q Are you saying that Ms. Valdivieso Cruz never 15 clocked in and out using HHAExchange?</p> <p>16 A Yeah, I'm going to say that. I'm 95% sure.</p> <p>17 Q Did Ms. Valdivieso Cruz provided an 18 explanation for why she was not clocking in and clocking 19 out?</p> <p>20 A To me, not really. I don't know if she -- 21 again, that will be more Diana Ramirez. Me personally, 22 I know that when they, you know, when they start saying 23 stuff all, you know, knowing into the service or what 24 have you, I tell them no.</p> <p>25 There's no excuses here because Medicaid</p>
<p style="text-align: right;">Page 95</p> <p>1 A Correct.</p> <p>2 Q In the form of an independent contractor 3 agreement?.</p> <p>4 A Correct.</p> <p>5 Q Correct. And then All VIP also has a 6 contractual relationship with the patient in the form of 7 whatever that sound check looks like.</p> <p>8 A We don't have a contract with the client. We 9 have an obligation perhaps -- but, we don't have, you 10 know, I mean, we supposed to provide services. We have 11 a contract with the insurance company --</p> <p>12 Q Okay.</p> <p>13 A -- So, you know, and that's to provide 14 services, you know, to the clients.</p> <p>15 Q That's only in the case that the client has 16 insurance though.</p> <p>17 A Now we do have a contract with private clients 18 that will tell you. We go out there and when we have a 19 contract with private clients, they sign a contract, 20 so --</p> <p>21 Q Right.</p> <p>22 A -- but with Medicaid, no, it's different.</p> <p>23 Q Did all of the clients that Cruz Valdivieso 24 was assigned to, were they all have Medicare clients? 25 A As far as I know, yes.</p>	<p style="text-align: right;">Page 97</p> <p>1 guidelines are there to stay and we have to follow them 2 and I cannot have an excuse and so I end the 3 conversation immediately and I just tell them come here, 4 we'll, you know, we'll help you, download the software 5 in a smartphone, you know, we give them the link to 6 YouTube in Spanish, in her case will be Spanish, but, 7 you know, and that's it. So, she -- I know she was 8 talking numerous times.</p> <p>9 Q Okay. And was she at least told -- was she 10 told at least one time -- let me ask a more specific 11 question.</p> <p>12 Was Ms. Valdivieso Cruz told by you at least 13 one time that she needed to download the HHAExchange 14 software?</p> <p>15 A Yes, definitely. Definitely.</p> <p>16 Q And do -- but you don't remember what her 17 response to you was as to why she was not using it?</p> <p>18 A No and they usually, you know, general -- they 19 usually just say internet is not working or I don't know 20 how to use it, you know.</p> <p>21 Q All right. Now at some point -- oh, did 22 Ms. Valdivieso Cruz, was she paid through direct 23 deposit?</p> <p>24 A I believe she was direct deposit. I believe 25 she was.</p>

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<p style="text-align: right;">Page 98</p> <p>1 Q Who would know that answer for sure?</p> <p>2 A I can check real quick here, I mean. Diana,</p> <p>3 but I believe she was, I can see if I can bring her up</p> <p>4 real quick or if you have a pay stub, we can check from</p> <p>5 that too. It will have two Ds on the top.</p> <p>6 Q Let me show you an exhibit --</p> <p>7 A Little up.</p> <p>8 Q Hold on. Let me show you Exhibit F.</p> <p>9 (Thereupon, Plaintiff's Exhibit F was entered</p> <p>10 into the record.)</p> <p>11 BY MR. CUMMINGS:</p> <p>12 Q Okay. I'm now showing you --</p> <p>13 A That is direct deposit. You see the --</p> <p>14 Q Okay.</p> <p>15 A -- two Ds up there --</p> <p>16 Q Yeah.</p> <p>17 A -- She's direct deposit.</p> <p>18 Q Okay. Let me just for the record explain what</p> <p>19 we're looking at. So, I'm now showing Ms. --</p> <p>20 MR. CUMMINGS: I'm sorry, Madam Court</p> <p>21 Reporter. Are we up to Exhibit E or Exhibit F?</p> <p>22 MR. GOLDBERG: Number F. I mean, letter F.</p> <p>23 THE WITNESS: Yeah, I think F.</p> <p>24 THE COURT REPORTER: Sorry, I couldn't unmute</p> <p>25 myself. F.</p>	<p style="text-align: right;">Page 100</p> <p>1 Q Okay. All right. And did All VIP make gross</p> <p>2 earnings of at least \$500,000 in 2020?</p> <p>3 A I'm sorry, there's someone out there with</p> <p>4 the -- cutting the grass. Can you repeat that question?</p> <p>5 Q Yes. Did All VIP make at least, gross</p> <p>6 earnings of at least \$500,000 in 2020?</p> <p>7 A I cannot say yes or no to that.</p> <p>8 Q Why is that?</p> <p>9 A I would have to -- because Medicaid has a bad</p> <p>10 habit of not paying. So, I would have to check to see</p> <p>11 if that's true or not.</p> <p>12 Q Your answer might be the same, but I'm going</p> <p>13 to go through and just ask for a couple other years</p> <p>14 also. All right. Did All VIP made gross earnings of at</p> <p>15 least \$500,000 in 2021?</p> <p>16 A For this one client?</p> <p>17 Q No, just in general.</p> <p>18 A In general, all my clients?</p> <p>19 Q Right, exactly. Yeah.</p> <p>20 A I hope so.</p> <p>21 Q Okay. All right. Is there a reason why you</p> <p>22 would think that 2021 All VIP paid at least \$500,000,</p> <p>23 but you're not sure in 2020?</p> <p>24 A I am not sure because I'm thinking -- I'm</p> <p>25 relating this to this client Cruz, but if you want me</p>
<p style="text-align: right;">Page 99</p> <p>1 MR. CUMMINGS: F. Okay. Got it.</p> <p>2 BY MR. CUMMINGS:</p> <p>3 Q All right. So exhibit F that I'm showing Ms.</p> <p>4 McKinnon is just a document, weekly pay stubs. This is</p> <p>5 a 61 page document.</p> <p>6 This also has a VIP Bates stamp at the bottom.</p> <p>7 There's actually two Bates stamps, but this one, the</p> <p>8 more prominent one is 92 and I think this goes all the</p> <p>9 way down to 152, but anyway, looking at the very first</p> <p>10 page one of 61, Ms. McKinnon, you said that this is a</p> <p>11 direct deposit pay stub?</p> <p>12 A Yes.</p> <p>13 Q Okay. And the pay stubs, let's just stick to</p> <p>14 the first one that we're looking at here, does it show</p> <p>15 how many hours Ms. Cruz Valdivieso work?</p> <p>16 A Yes.</p> <p>17 Q And would there be an earning section?</p> <p>18 A That -- yes.</p> <p>19 Q Okay. And where it says, "Hours/units," that</p> <p>20 means that for this particular week from -- yes, it</p> <p>21 looks like December 20th, 2021 to December 26th, 2021,</p> <p>22 Ms. Valdivieso worked 55 hours?</p> <p>23 A Yes, that's correct.</p> <p>24 Q Okay. At a rate of \$13 an hour?</p> <p>25 A That's correct.</p>	<p style="text-align: right;">Page 101</p> <p>1 related in general, I can give you an answer.</p> <p>2 Q Oh, yeah. No, it's not really in general, I</p> <p>3 mean, specifically, but just in that -- for that one</p> <p>4 client.</p> <p>5 A If this specifically to Cruz the answer is,</p> <p>6 no, I do not know. I would have to check. I kind of</p> <p>7 doubt it, I will get that much for this client.</p> <p>8 Q Right, but no, what I'm --</p> <p>9 A Especially --</p> <p>10 Q Yeah, no. What I'm --</p> <p>11 A But in general --</p> <p>12 Q No. In 2020, did All VIP including all of its</p> <p>13 offices make \$500,000 that year just in gross revenue?</p> <p>14 A Yes, I -- yes, we better. Yes.</p> <p>15 Q Okay. In 2021, did All VIP have gross</p> <p>16 earnings of at least \$500,000?</p> <p>17 A I hope so. Yes.</p> <p>18 Q Okay. And then 2022, did All VIP have gross</p> <p>19 earnings of at least \$500,000?</p> <p>20 A I don't know. I haven't done my taxes. I</p> <p>21 don't think for 2022, so I wouldn't know, but I'm going</p> <p>22 to say yes --</p> <p>23 Q Okay.</p> <p>24 A -- because, you know, my employees got page,</p> <p>25 I'm going to say yes. I would have to in order to</p>

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<p style="text-align: right;">Page 102</p> <p>1 continue the business.</p> <p>2 So, I'm going to say yes although I haven't --</p> <p>3 we haven't file yet for '22.</p> <p>4 Q As the owner of All VIP, are you the person</p> <p>5 responsible for filing taxes for All VIP?</p> <p>6 A That is -- yes. Yes, I am.</p> <p>7 Q And you're use -- All VIP hires an accountant</p> <p>8 to help you with this status?</p> <p>9 A Yes. Yes, we do. I don't have to, but I do.</p> <p>10 Q Okay. All right. I understood. And did All</p> <p>11 VIP file taxes in 2020?</p> <p>12 A Yes.</p> <p>13 Q Did All VIP file taxes in 2021?</p> <p>14 A Yes.</p> <p>15 Q Is your -- does your signature appear on the</p> <p>16 text documents?</p> <p>17 A I believe they do.</p> <p>18 Q All right. Getting back specifically to Ms.</p> <p>19 Cruz Valdivieso. Let me show you what I'm marking as</p> <p>20 Exhibit G.</p> <p>21 (Thereupon, Plaintiff's Exhibit G was entered</p> <p>22 into the record.)</p> <p>23 A Okay.</p> <p>24 BY MR. CUMMINGS:</p> <p>25 Q Okay. I'm now showing you a document which</p>	<p style="text-align: right;">Page 104</p> <p>1 number on that document?</p> <p>2 MR. CUMMINGS: Yeah, good question. So, Page</p> <p>3 1 is Bates 2, it says, "VIPdocs2-000002" and then</p> <p>4 the second page is, "VIPdocs2-000003." So, it</p> <p>5 looks like Bates Stamp 2 and 3.</p> <p>6 MR. GOLDBERG: Yeah, a Bates number -- a Bates</p> <p>7 docs two. All right. Thank you for clarifying</p> <p>8 that, sir.</p> <p>9 MR. CUMMINGS: No problem.</p> <p>10 BY MR. CUMMINGS:</p> <p>11 Q Okay. I'm sorry about that Ms. McKinnon. But</p> <p>12 please just read and let me know when you need me to</p> <p>13 move up and down?</p> <p>14 A Okay. Next page, please. Okay.</p> <p>15 Q Okay. Did you have an opportunity to finish</p> <p>16 reading the statement?</p> <p>17 A Yeah. Yes.</p> <p>18 Q Okay. And so, let me just ask you a few</p> <p>19 questions about some of the things that have been made</p> <p>20 in the statement.</p> <p>21 First, do you have any personal knowledge of</p> <p>22 the facts that Ms. Ramirez is writing in this statement?</p> <p>23 A Well, I --, you know, the ones that I know for</p> <p>24 sure is that she wasn't clocking in and clocking out to</p> <p>25 change, that she did call to state that she was missing</p>
<p style="text-align: right;">Page 103</p> <p>1 has -- this is a two page document which at the top says</p> <p>2 statement for a Cruz Valdivieso and then at the bottom,</p> <p>3 it's signed by Diana Ramirez on August 8th,</p> <p>4 2022.</p> <p>5 My first question is, have you ever seen this</p> <p>6 document before?</p> <p>7 A I briefly saw it. I didn't pay too much</p> <p>8 attention to it, but I did see it.</p> <p>9 Q Okay. And did you direct Ms. Ramirez to write</p> <p>10 the statement?</p> <p>11 A I did not direct her. I probably asked her</p> <p>12 for it. I'm not sure if the attorney or at the time we</p> <p>13 probably asked her for -- to give a statement, to tell</p> <p>14 us what happened --</p> <p>15 Q Got it.</p> <p>16 A -- So, that's why she wrote it. It was more</p> <p>17 to document, in other words.</p> <p>18 Q Okay. So, what I'll do is, I'm not asking you</p> <p>19 to read it out loud and I don't need you to read it to</p> <p>20 me, I would like you to read it to yourself. I have</p> <p>21 control of when it can go up and down and just let me</p> <p>22 know when you're done.</p> <p>23 Okay. If you need me to move up and down,</p> <p>24 then let me know.</p> <p>25 MR. GOLDBERG: Hey Toussaint, what's the bates</p>	<p style="text-align: right;">Page 105</p> <p>1 money.</p> <p>2 It was -- now I realized it was Diana who told</p> <p>3 me that she was working those private hours with the</p> <p>4 clients and that she was putting in those private hours</p> <p>5 on the timesheet.</p> <p>6 So, there was some kind of confusion going on.</p> <p>7 So, that's, you know, pretty much what I write, what I</p> <p>8 recall and also the other client, we had -- she kept</p> <p>9 calling the other client. I think the other client was</p> <p>10 her neighbor and she wanted the other client to call us</p> <p>11 and to harass us about her pay. So, stuff like that,</p> <p>12 you know, does refreshes my memory.</p> <p>13 Q Okay. All right. And so I want to just talk</p> <p>14 about the private hours because we talked about that a</p> <p>15 little bit before and when Ms. Ramirez says that</p> <p>16 Ms. Cruz was putting in private hours, what does that</p> <p>17 mean to you?</p> <p>18 A That means that she's working for the client</p> <p>19 privately. She just, you know, the client and her made</p> <p>20 agreement.</p> <p>21 Q And those hours were not authorized then by</p> <p>22 Humana, let's say --</p> <p>23 A No.</p> <p>24 Q -- in the case of Mr. ZK?</p> <p>25 A No, they were not authorized by Humana.</p>

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<p align="right">Page 106</p> <p>1 Q Okay. And when a home health aide is working</p> <p>2 hours that are outside of their authorization for the</p> <p>3 insurance company authorization, then what is All VIP's</p> <p>4 responsibility for compensating that home health aide?</p> <p>5 A They are not supposed to be doing that because</p> <p>6 it's in the contract. They're not supposed to be</p> <p>7 working privately for a client that we referred them to.</p> <p>8 They are supposed to call the agency.</p> <p>9 Q Got it. And what would All VIP consider</p> <p>10 private hours?</p> <p>11 A The aide working for the client privately</p> <p>12 without notifying the agency, whether it's the aide or</p> <p>13 the client, but the aide --</p> <p>14 Q What is - sorry. Go ahead.</p> <p>15 A I'm sorry.</p> <p>16 Q No. I'm sorry. Go ahead.</p> <p>17 A The aide is not supposed to be working for our</p> <p>18 clients privately and they're not supposed to be taking</p> <p>19 our clients elsewhere either or stealing our clients in</p> <p>20 other words.</p> <p>21 Q Okay. Now when Humana authorizes -- when</p> <p>22 Humana authorizes hours and then the client agrees to a</p> <p>23 schedule, if the home health aide, in this particular</p> <p>24 case Ms. Cruz is working during those hours that the</p> <p>25 client approved, are they still considered private</p>	<p align="right">Page 108</p> <p>1 client --</p> <p>2 Q Got it.</p> <p>3 A -- that's private hours, 10 hours are private</p> <p>4 hours. That's usually how we know what's happening.</p> <p>5 Q Got it. Okay. And so the extra 10 hours that</p> <p>6 the home health aide is working, if they're getting paid</p> <p>7 on the side by the client, let's say, "Privately," then</p> <p>8 are they -- is the home health aide then in breach of</p> <p>9 contract with All VIP?</p> <p>10 A Yes, because I like what you said, she's</p> <p>11 getting paid on the side, under the table. No, you're</p> <p>12 not allowed to do that and yes, they are in breach of</p> <p>13 contract, absolutely.</p> <p>14 Q And so, the documents that we looked at before</p> <p>15 Ms. Valdivieso Cruz's on boarding documents, do they</p> <p>16 explain that that situation that we just talked about</p> <p>17 with private hours and being paid privately by the</p> <p>18 client are a breach of the contract with All VIP?</p> <p>19 A It's in the contract and not only it's in the</p> <p>20 contract, but her been an aide for so long, X amount of</p> <p>21 years and working for so many other agencies which I can</p> <p>22 prove, tells me that she knows, bottom line, she's</p> <p>23 aware.</p> <p>24 Q Besides Mr. ZK, do you -- does All VIP have</p> <p>25 other clients who Ms. Valdivieso Cruz apparently worked</p>
<p align="right">Page 107</p> <p>1 hours?</p> <p>2 A Wait, I'm sorry. Can you rephrase, can you</p> <p>3 repeat that question? I'm sorry.</p> <p>4 Q Yeah, let me just give an example. So for</p> <p>5 example, let's say Humana approves, you know, however,</p> <p>6 you know, 300 hours in a certain period and then the</p> <p>7 client says, "Okay. Well, I want to be seen Friday,</p> <p>8 Saturday and Sunday" and then All VIP does not set the</p> <p>9 home health data for particular Friday, Saturday and</p> <p>10 Sunday, you know, let's just say it's the first, second</p> <p>11 and third, happened to be Friday, Saturday and Sunday,</p> <p>12 but the caregiver works those days, are they still</p> <p>13 considered private hours that first, second and third</p> <p>14 day of the week or of the month?</p> <p>15 A It all depends because if they work those</p> <p>16 hours that we have authorization from Humana, they know</p> <p>17 they're not private --</p> <p>18 Q Okay.</p> <p>19 A -- that's Humana, you know.</p> <p>20 Q Okay. So, private hours are essentially just</p> <p>21 any hours that are not on the patient calendar schedule</p> <p>22 that we saw?</p> <p>23 A No, I would say private hours are hours, like,</p> <p>24 in other words, if Humana gives his client 50 hours a</p> <p>25 week, right, if aide work 60 hours a week with that</p>	<p align="right">Page 109</p> <p>1 private hours for?</p> <p>2 A Not that I'm aware, only this couple. She had</p> <p>3 a good relationship with them and it's my understanding</p> <p>4 also that she hired you, but I don't know if that's true</p> <p>5 or not, but and that she had a good relationship with</p> <p>6 them.</p> <p>7 Q Okay. And does All VIP claim that</p> <p>8 Ms. Valdivieso took some of its clients?</p> <p>9 A She took these two for sure and she was trying</p> <p>10 to take the third one and she called the office and</p> <p>11 alerted us to it because they were neighbors, I guess,</p> <p>12 yeah, neighbors, she was going over there and knocking</p> <p>13 on her door and pretty much harassing the client and</p> <p>14 demanding the client to leave All VIP care for X, Y and</p> <p>15 Z reasons and then she went to the, you know, to a</p> <p>16 secret family and she started problems with them and</p> <p>17 that's why you see that that is you on Google review</p> <p>18 because she went over there and she started to pop.</p> <p>19 Q Now when you said that she took these two</p> <p>20 clients, I thought you were referring to the ZKs, who</p> <p>21 are the neighbors that you're referring to?</p> <p>22 A There is a neighbor that she has that she was</p> <p>23 working for and I think it's in that letter, but let me</p> <p>24 see if I see the name of that client here, was it</p> <p>25 Menendez or something?</p>

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<p style="text-align: right;">Page 110</p> <p>1 Q I'm pulling back up Exhibit --</p> <p>2 A Where was it? Let's see.</p> <p>3 Q -- G, the statement from Ms. Ramirez. Do you</p> <p>4 know if the neighbor that you're referring -- the</p> <p>5 neighbor of Ms. Cruz Valdivieso?</p> <p>6 A There it is, Angela Menendez. Do you see it</p> <p>7 right there?</p> <p>8 Q Right.</p> <p>9 A That's her.</p> <p>10 Q Angela Menendez was Ms. Cruz's neighbor?</p> <p>11 A Yes, I believe so.</p> <p>12 Q Okay.</p> <p>13 A The neighbor and also a client of ours, I'm</p> <p>14 just going to confirm just to make sure. I don't</p> <p>15 really, you know, deal with the Broward office that</p> <p>16 much, but I believe that she was our client and a</p> <p>17 neighbor. There was a neighbor, but she was knocking on</p> <p>18 her door.</p> <p>19 Q Okay. And that neighbor if it was Angela</p> <p>20 Menendez, was also an All VIP client?</p> <p>21 A Correct. And Diana Ramirez will know more</p> <p>22 about that.</p> <p>23 Q Does All VIP claim that Ms. Valdivieso Cruz</p> <p>24 violated her non-compete agreement by taking Ms.</p> <p>25 Menendez?</p>	<p style="text-align: right;">Page 112</p> <p>1 A She can't steal our clients. She can't take</p> <p>2 our clients to someplace else. It's in there, you can't</p> <p>3 do that.</p> <p>4 Q Do the clients have the ability to cut off</p> <p>5 their contract with All VIP at any time?</p> <p>6 A That's right, they can.</p> <p>7 Q And why does All VIP think that Ms. Valdivieso</p> <p>8 Cruz encouraged or I guess told the ZK's to go to</p> <p>9 another agency rather than it just be the Zk's on</p> <p>10 choice, personal choice?</p> <p>11 A You know, that's probably a good question for</p> <p>12 Ms. Cruz, but she did do that. She went to the clients</p> <p>13 and she started issues, just like she went to the other</p> <p>14 client, Ms. Menendez I believe and she started telling</p> <p>15 them stories and not only she do that, she also went to</p> <p>16 the other caregivers on the case and started issues too.</p> <p>17 She was the one that started everything.</p> <p>18 She got the clients all upset. In fact, I</p> <p>19 believe the client even paid her out of pocket. She got</p> <p>20 the client so upset that I believe they, like I said,</p> <p>21 they did a Google review, the negative Google review</p> <p>22 which was terrible and then I believe they hire your</p> <p>23 services.</p> <p>24 Q Right. But when you said that, let me just</p> <p>25 break this down. That Ms. Valdivieso Cruz told clients</p>
<p style="text-align: right;">Page 111</p> <p>1 A She -- I don't think she took Ms. Menendez, I</p> <p>2 don't think, but she did take the ZK, both of them. She</p> <p>3 took them to another agency.</p> <p>4 Q Besides Cesar ZK and I guess his wife or</p> <p>5 whoever the other client was --</p> <p>6 A Yeah, Yolanda, Yolanda I think.</p> <p>7 Q Okay. So Yolanda and Cesar ZK, does all the</p> <p>8 IP claim that Ms. Valdivieso Cruz took any other of its</p> <p>9 clients?</p> <p>10 A I don't recall any other, that would be a good</p> <p>11 question for Diana. I just know that these two for</p> <p>12 sure.</p> <p>13 Q And when All VIP says that Ms. Valdivieso Cruz</p> <p>14 took these clients, what exactly is the allegation</p> <p>15 there?</p> <p>16 A There's no allegation. She did it. She took</p> <p>17 the two clients, I believe it was senior nannies. I</p> <p>18 have it all written down somewhere.</p> <p>19 She went and she took them to another agency</p> <p>20 that they want to hear and they call the case manager at</p> <p>21 Humana and Humana case manager transferred everything</p> <p>22 over to the new agency.</p> <p>23 Q And what exactly -- what part of</p> <p>24 Ms. Valdivieso Cruz's contract with All VIP that she</p> <p>25 violated by doing that?</p>	<p style="text-align: right;">Page 113</p> <p>1 to complain about All VIP, what is your basis of</p> <p>2 information for that statement?</p> <p>3 A From what I hear from the clients and from the</p> <p>4 caregivers.</p> <p>5 Q So are you saying that after the ZK's</p> <p>6 transferred to another agency, that All VIP still had</p> <p>7 contact with them?</p> <p>8 A With the clients?</p> <p>9 Q Right.</p> <p>10 A I don't think we have much contact with them,</p> <p>11 but again, you know, Diana will be -- she would have</p> <p>12 more contact with them then I would have, I don't</p> <p>13 recall, maybe I did. I'm not sure if I did regarding</p> <p>14 pay. I don't remember. I'm sorry.</p> <p>15 Q Okay. Now what I want to find out is did, you</p> <p>16 know, the ZK's, Yolanda or Cesar personally tell you or</p> <p>17 somebody else that Diana -- I'm sorry, that Ms. Cruz</p> <p>18 Valdivieso told them to leave All VIP?</p> <p>19 A She -- not with me, but I guess, but she</p> <p>20 definitely mentioned that to the other aides on the</p> <p>21 case.</p> <p>22 This is how we found out. She went to the</p> <p>23 other aides on the case and she said to them, "Listen,</p> <p>24 go register a Senior Nanny because we're taking this</p> <p>25 case and if you want to come with us and you want to</p>



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<p style="text-align: right;">Page 114</p> <p>1 continue working here, call Senior Nannies."</p> <p>2 Q So, Senior Nannies is another agency?</p> <p>3 A Nurse registry, yes.</p> <p>4 Q Nurse registry in competition with All VIP?</p> <p>5 A Well, I guess you could call it competition,</p> <p>6 but. Yeah, because they do the same thing we do.</p> <p>7 Q Okay. Had you heard of Senior Nannies before</p> <p>8 Ms. Valdivieso Cruz started working with All VIP?</p> <p>9 A Sure, for Senior Nannies. They've been around</p> <p>10 for a long time.</p> <p>11 Q Okay. And when you said other aides, you</p> <p>12 meant home health aides working for All VIP told you</p> <p>13 that Ms. Valdivieso Cruz was trying to get them to come</p> <p>14 over to Senior Nannies?</p> <p>15 A To be specific and accurate, I'm talking about</p> <p>16 caregivers on the same case as Ms. Cruz, on the same</p> <p>17 case with the CKs.</p> <p>18 Q Would some of those caregivers that you're</p> <p>19 referring to be on that schedule that I showed you</p> <p>20 earlier such as --</p> <p>21 A They could be. Yes, they should be.</p> <p>22 Q Did you speak to those caregivers personally?</p> <p>23 A I think I did. I think there was one that I</p> <p>24 spoke to and I -- and the reason I say that is because I</p> <p>25 remember saying to one of them and also I spoke to</p>	<p style="text-align: right;">Page 116</p> <p>1 but let's just suppose that the client doesn't leave,</p> <p>2 what we do is we will allow this -- we will allow this</p> <p>3 aide to remain with the client, but we won't give her</p> <p>4 any new clients, if I'm making myself clear because --</p> <p>5 Q No, I understand.</p> <p>6 A -- remember, we do not order the independent</p> <p>7 contractors, okay, we don't give them orders. Okay. But</p> <p>8 -- so we have to focus on the client. If the client</p> <p>9 tells me, "That's the aide I want," I have to give them</p> <p>10 that aide.</p> <p>11 The only time that I say no, this aide does</p> <p>12 not work for this agency is when they do not meet</p> <p>13 federal and state guidelines.</p> <p>14 Q Okay. Understood. And now just getting back</p> <p>15 to how All VIP knows that Ms. Valdivieso Cruz stole the</p> <p>16 ZK's away from All VIP, is that because another home</p> <p>17 health aide say that they knew they had that information</p> <p>18 or I just want to know how All VIP knows?</p> <p>19 A I think there's a number of things, in other</p> <p>20 words, she behaved if I, you know, the fact that she</p> <p>21 didn't take on the case.</p> <p>22 The fact that Humana, Humana I believe</p> <p>23 confirmed it, I'm not 100% sure on that, the fact that</p> <p>24 the other aide spoke, the fact that the other clients</p> <p>25 spoke, she also wanted to get the other client to also</p>
<p style="text-align: right;">Page 115</p> <p>1 Diana. I remember saying to her, "Listen, you know, if</p> <p>2 you're going to be stealing my clients, we're going to</p> <p>3 remove you from the roster, you know, and you're in</p> <p>4 breach of contract and I can't have," you know and she</p> <p>5 said, I believe she, you know, she understood and I</p> <p>6 believe she said she wasn't going to do that.</p> <p>7 Q That's a conversation that you personally had</p> <p>8 with Ms. Valdivieso?</p> <p>9 A Right, that I have with one of them. With one</p> <p>10 of them. With one of the aides. I just came --</p> <p>11 Q Oh, with one of the aides?</p> <p>12 A One of the aides that I had a conversation.</p> <p>13 Q One of the aides. Okay. Now did you --</p> <p>14 A And Diana, I also had the conversation with</p> <p>15 Diana Rodriguez as well, I mean, Diana Ramirez as well.</p> <p>16 I did not want to keep aide that was stealing</p> <p>17 our clients. That were in breach of contract, I did not</p> <p>18 want to keep them on the roster.</p> <p>19 Q Okay. Did All VIP have to terminate the</p> <p>20 employment of any other home health aide that worked on</p> <p>21 the same clients as Ms. Valdivieso Cruz due to this</p> <p>22 stealing client's issue?</p> <p>23 A If they steal clients, we do terminate them.</p> <p>24 We do. We remove them from the roster. In this case it</p> <p>25 was very simple because the client left with the aide,</p>	<p style="text-align: right;">Page 117</p> <p>1 go to the other agency, so there were numerous reasons</p> <p>2 why we came to that conclusion.</p> <p>3 Q Okay. All right. You're aware that All VIP</p> <p>4 sued Ms. Valdivieso Cruz in State Court, correct?</p> <p>5 A That's right. There was - yes --</p> <p>6 Q Okay.</p> <p>7 A -- breach of contract.</p> <p>8 Q Right. Now without getting into any</p> <p>9 conversations that you had with this attorney or your</p> <p>10 previous attorney, why is All VIP -- I know you just</p> <p>11 said breach of contract, but what one of the factual</p> <p>12 reasons why All VIP is suing Ms. Valdivieso Cruz?</p> <p>13 A The factual reason is because she took my</p> <p>14 client to another agency and she was trying to take</p> <p>15 another client. In addition to that, she wanted to also</p> <p>16 pay the caregiver on the case to the other agency, that</p> <p>17 is factual, that is fact.</p> <p>18 Q Does All VIP claim that Ms. Valdivieso Cruz</p> <p>19 owes it any money?</p> <p>20 A Say that again? I'm sorry.</p> <p>21 Q Does All VIP claim that Ms. Valdivieso Cruz</p> <p>22 owes it any money?</p> <p>23 A To All VIP Care that she owes us money?</p> <p>24 Q Yes.</p> <p>25 A Oh, yeah. She owes us money because we lost</p>

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<p style="text-align: right;">Page 118</p> <p>1 breach of contract.</p> <p>2 Q How much money does Ms. Cruz owe All VIP?</p> <p>3 A We haven't come to that conclusion yet, but</p> <p>4 she definitely owes us a lot of money.</p> <p>5 Q And when you say a lot, like could you</p> <p>6 ballpark that, is it in the 1000s, 10s of 1000s, 100s of</p> <p>7 1000s?</p> <p>8 A It's probably more than 30 grand. She owes us</p> <p>9 a lot of money.</p> <p>10 Q And did All VIP -- was All VIP aware that --</p> <p>11 when did All VIP become aware that Ms. Valdivieso Cruz</p> <p>12 allegedly stole its clients?</p> <p>13 A Pretty much immediately, you know, when --</p> <p>14 pretty much immediately because I -- and again, Diana</p> <p>15 Ramirez might know more on this, but, you know, I know I</p> <p>16 heard something, "Oh Liz, that you're aware that, you</p> <p>17 know, that Cruz is leaving and she's taking the clients,</p> <p>18 you know," and, so that type of thing.</p> <p>19 I think it was Diana who called, but I'm not</p> <p>20 100% sure.</p> <p>21 Q Got it. And what attempts did All VIP make to</p> <p>22 get its clients back from Ms. Valdivieso Cruz?</p> <p>23 A I think that would be a question more for</p> <p>24 Diana because -- but I think -- I'm not sure if -- the</p> <p>25 clients, you know, remember, the clients left without</p>	<p style="text-align: right;">Page 120</p> <p>1 time?</p> <p>2 A Absolutely. And why wasn't done, that's a</p> <p>3 question for Mr. Michael Garcia.</p> <p>4 Q Michael Garcia, who's that?</p> <p>5 A He was the one that was supposed to file the</p> <p>6 lawsuit. It was probably sitting on his desk.</p> <p>7 Q Oh, you're talking about All VIPs previous</p> <p>8 counsel?</p> <p>9 A Um-hum.</p> <p>10 Q Oh, okay. All right.</p> <p>11 A Yes.</p> <p>12 Q Okay. When did All VIP retain Mr. Michael</p> <p>13 Garcia?</p> <p>14 A Long time ago.</p> <p>15 Q Was Ms. Valdivieso Cruz still on All VIPs</p> <p>16 payroll at the time that Mr. Garcia was hired?</p> <p>17 A He was hired before she was, so. I believe</p> <p>18 she was. He was already here anyway, so.</p> <p>19 Q Oh, I understand. Okay. He was just -- he</p> <p>20 was All VIPs attorney?</p> <p>21 A Yeah, if we needed him, that's what we will</p> <p>22 use. Yeah --</p> <p>23 Q I see. Okay.</p> <p>24 A -- So, he was already on board, you know.</p> <p>25 Q Right. But when was he, I guess, you know,</p>
<p style="text-align: right;">Page 119</p> <p>1 really telling us that we're leaving, you know. it's not</p> <p>2 like the client calls and say, "Hey, you know, I'm going</p> <p>3 to leave because you didn't pay her, you know."</p> <p>4 They -- what they did was, they called the</p> <p>5 case manager. So, it was -- and then I found out</p> <p>6 through Diana and from the other aide on the case and</p> <p>7 the other client that it was true.</p> <p>8 Q Okay. And what -- is Ms. Valdivieso Cruz the</p> <p>9 first home health aide that has allegedly taken clients</p> <p>10 from All VIP?</p> <p>11 A No, she's not the first, but luckily for us,</p> <p>12 we don't have that many to have that.</p> <p>13 Q Did All VIP file a lawsuit against any of the</p> <p>14 other aides or caregivers that took clients from it?</p> <p>15 A If we need to, we will.</p> <p>16 Q But has it done as of this time besides</p> <p>17 Ms. Valdivieso Cruz?</p> <p>18 A Yes.</p> <p>19 Q Did those other lawsuits against other</p> <p>20 caregivers for stealing clients come before</p> <p>21 Ms. Valdivieso Cruz's lawsuit or after?</p> <p>22 A Both, before and after, but again, we've been</p> <p>23 very lucky that we don't have that many.</p> <p>24 Q Are All VIP intend to file a lawsuit against</p> <p>25 Ms. Valdivieso Cruz before she filed her lawsuit over</p>	<p style="text-align: right;">Page 121</p> <p>1 made aware of what was going on with Ms. Cruz, was she</p> <p>2 still on payroll?</p> <p>3 A Immediately -- yeah. No, I don't think so.</p> <p>4 Immediately when we noticed that she stole out client</p> <p>5 and she move over and I had factual information, I got</p> <p>6 my people and I got my nose, I'm all documented, that's</p> <p>7 when I call him and I say, "Hey, I need to file a suit."</p> <p>8 Q Okay. Got it. And --</p> <p>9 A Breach of contract.</p> <p>10 Q Was that before Ms. Valdivieso Cruz filed her</p> <p>11 lawsuit for over time?</p> <p>12 A Absolutely, it was before. I have e-mails to</p> <p>13 prove it.</p> <p>14 Q Okay. All right. Are there any questions</p> <p>15 that you thought I would ask you that I did not ask?</p> <p>16 A No, I think --</p> <p>17 MR. GOLDBERG: Object to the -- objection to</p> <p>18 form.</p> <p>19 MR. CUMMINGS: I never got that objection</p> <p>20 before, Counsel, but, okay. I'm just --</p> <p>21 MR. GOLDBERG: Yeah.</p> <p>22 MR. CUMMINGS: -- is noted for the record</p> <p>23 though. I understood.</p> <p>24 MR. GOLDBERG: I appreciate that, sir.</p> <p>25 MR. CUMMINGS: What did you say?</p>

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<p align="right">Page 122</p> <p>1 MR. GOLDBERG: I say I appreciate that, sir.</p> <p>2 MR. CUMMINGS: Okay.</p> <p>3 BY MR. CUMMINGS:</p> <p>4 Q Ms. McKinnon, you can still answer the</p> <p>5 question if you have an answer to it.</p> <p>6 A No, I don't.</p> <p>7 Q Okay. All right. Is there anything else that</p> <p>8 you want to add related to Ms. Valdivieso Cruz's</p> <p>9 employment with All VIP?</p> <p>10 A Yeah, I think that I would add is that she's</p> <p>11 1099 and she's not an employee and I don't know why</p> <p>12 she's doing what she's doing and she was well informed</p> <p>13 and so, you know, she's taking this platform in the</p> <p>14 wrong way, completely in the wrong way.</p> <p>15 MR. CUMMINGS: Okay. I have no further</p> <p>16 question for you. I'm not sure if Mr. Goldberg</p> <p>17 does.</p> <p>18 MR. GOLDBERG: No question sir, form my side</p> <p>19 of the table. Thank you for the opportunity. We're</p> <p>20 going to read and we're going to print.</p> <p>21 (Deposition concluded at 02:14 p.m.)</p> <p>22 (Reading and signing of the deposition by the</p> <p>23 witness has been reserved.)</p> <p>24</p> <p>25</p>	<p align="right">Page 124</p> <p align="center">CERTIFICATE OF OATH</p> <p>2 STATE OF FLORIDA</p> <p>3 COUNTY OF MIAMI DADE</p> <p>4</p> <p>5 I, SULEYDIS VIDES, the undersigned authority,</p> <p>6 certify that LIZ VANESSA MCKINNON, appeared before me</p> <p>7 remotely pursuant to Florida Supreme Court Order AOSC20-</p> <p>8 23 and was duly sworn on the 16th day of May, 2023.</p> <p>9</p> <p align="center">Witness my hand this 31st day of May, 2023.</p> <p>10</p> <p>11 </p> <p>12</p> <p>13</p> <p>14</p> <p>SULEYDIS VIDES, COURT REPORTER</p> <p>15 NOTARY PUBLIC, STATE OF FLORIDA</p> <p>Commission No.: HH 373555</p> <p>16 Commission Exp: MARCH 15, 2027</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p align="right">Page 123</p> <p align="center">CERTIFICATE OF REPORTER</p> <p>2 STATE OF FLORIDA</p> <p>3 COUNTY OF MIAMI DADE</p> <p>4</p> <p>5 I, SULEYDIS VIDES, Court Reporter and Notary Public</p> <p>6 for the State of Florida, do hereby certify that I was</p> <p>7 authorized to and did digitally report and transcribe</p> <p>8 the foregoing proceedings, and that the transcript is a</p> <p>9 true and complete record of my notes.</p> <p>10 I further certify that I am not a relative,</p> <p>11 employee, attorney or counsel of any of the parties, nor</p> <p>12 am I a relative or employee of any of the parties'</p> <p>13 attorneys or counsel connected with the action, nor am I</p> <p>14 financially interested in the action.</p> <p>15</p> <p align="center">Witness my hand this 31st day of May, 2023.</p> <p>16</p> <p>17 </p> <p>18</p> <p>19</p> <p>20 SULEYDIS VIDES, COURT REPORTER</p> <p>NOTARY PUBLIC, STATE OF FLORIDA</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p align="right">Page 125</p> <p>1 DATE: May 31, 2023</p> <p>2 TO: Liz Vanessa Mckinnon</p> <p>3 C/O</p> <p>4 Randy Mark Goldberg, Esquire</p> <p>5 Randy M. Goldberg & Associates, PLLC</p> <p>6 151 Northwest 1st Avenue</p> <p>7 Delray Beach, Florida 33444</p> <p>8 IN RE: Cruz Valdivieso Figuera vs. All Vip Care Inc</p> <p>9 and Liz Velazquez McKinnon</p> <p>10 CASE NO: 0:22-CV-61553-DIMITROULEAS/HUNT</p> <p>11</p> <p>12 Dear Ms. McKinnon,</p> <p>13</p> <p>14 Please take notice that on 05/16/2023, you gave</p> <p>15 your deposition in the above-referenced matter. At that</p> <p>16 time, you did not waive signature. It is now necessary</p> <p>17 that you sign your deposition. You may do so by</p> <p>18 contacting your own attorney or the attorney who took</p> <p>19 your deposition and make an appointment to do so at</p> <p>20 their office. You may also contact our office at the</p> <p>21 below number, Monday - Friday, 9:00 AM - 5:00 PM, for</p> <p>22 further information and assistance.</p> <p>23 If you do not read and sign your deposition within</p> <p>24 thirty (30) days, the original, which has already been</p> <p>25 forwarded to the ordering attorney, may be filed with</p> <p>the Clerk of the Court.</p> <p>If you wish to waive your signature, sign your name</p> <p>in the blank at the bottom of this letter and promptly</p> <p>return it to us.</p> <p>Very truly yours,</p> <p>Suleydis Vides, Court Reporter</p> <p>Universal Court Reporting</p> <p>(954)712-2600</p> <p>I do hereby waive my signature.</p> <p>21</p> <p>22</p> <p>23</p> <p>24 Liz Vanessa Mckinnon</p> <p>Cc: via transcript:</p> <p align="right">Toussaint Cummings, Esquire</p> <p>25</p>

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1 Errata Sheet	
2	
3 NAME OF CASE: CRUZ VALDIVIESO FIGUERA vs ALL VIP CARE INC. AND LIZ VELAZQUEZ MCKINNON	
4 DATE OF DEPOSITION: 05/16/2023	
5 NAME OF WITNESS: Liz Mckinnon	
6 Reason Codes:	
7 1. To clarify the record.	
8 2. To conform to the facts.	
9 3. To correct transcription errors.	
10 Page ____ Line ____ Reason ____	
11 From ____ to ____	
12 Page ____ Line ____ Reason ____	
13 From ____ to ____	
14 Page ____ Line ____ Reason ____	
15 From ____ to ____	
16 Page ____ Line ____ Reason ____	
17 From ____ to ____	
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21 From ____ to ____	
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23 From ____ to ____	
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